

RIGHT TO KNOW ADVISORY COMMITTEE

DRAFT AGENDA

December 1, 2009

12:30 p.m.

Room 438, State House

Welcome and introductions

1. LONGITUDINAL STUDIES BY DEPARTMENT OF EDUCATION (PL 2009, C. 448)

Commissioner Susan Gendron

2. TRANSPARENCY OF INFORMATION RELATED TO STATE GOVERNMENT CONTRACTS AND SPENDING

- Update from Office of Information Technology

3. REPORTS OF SUBCOMMITTEES

- **Legislative Subcommittee** Chris Spruce, Chair
 - Requests for bulk electronic data
 - Communications outside of public proceedings (Rep. Dostie's bill)
- **Public Records Exceptions Subcommittee** Shenna Bellows, Chair
 - Review and recommendations, existing public records exceptions (Title 10 - 21-A)
 - Recommendations - proposed amendments
 - Special issues
 - Juror confidentiality (14 §§1254-A and 1254-B)
 - Criminal History Record Information Act (16 c. 3, subc. 8)
 - Education credentialing confidentiality (20-A §13004)
 - Central Voter Registration System (CVR) (21-A §196) - Julie Flynn, Deputy Secretary of State
 - Standard language: Protect information submitted in request for technical or financial assistance (at request of the Judiciary Committee)

4. REVIEW DRAFTS, RECOMMENDATIONS FOR OTHER LEGISLATION

- Social Security numbers
 - Comments and suggestions
- Use of technology in public proceedings; revision
- Taking and keeping minutes/records of public proceedings; revision

5. REVIEW LIST OF BILL TITLES FOR 2ND REGULAR SESSION RELATED TO FOA ISSUES

6. EXTERNSHIP UPDATE

7. REPORT

- Contents
- Process, timing

8. OTHER MATTERS?

Adjourn

Schedule future meetings?



JOHN ELIAS BALDACCI
GOVERNOR

STATE OF MAINE
DEPARTMENT OF EDUCATION
23 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0023

SUSAN A. GENDRON
COMMISSIONER

TO: Margaret Reinsch
Colleen McCarthy Reid
Staff for the Right to Know Advisory Committee

FROM: Greg Scott, Department of Education FOA Contact

DATE: November 30, 2009

SUBJECT: Right To Know Advisory Committee / December 1, 2009 Meeting

Attached is a summary of PL 2009, Chapter 448; a copy of Commissioner Gendron's testimony at the public hearing on L.D. 1356; and a copy of Department of Education Informational Letter # 28, *Postponement of Requirement to Collect Student Social Security Numbers*.

Hopefully, these materials will be informative and helpful to you and the Committee in advance of tomorrow's presentation.

PL 2009, Chapter 448
An Act To Improve the Ability of the Department of Education To Conduct
Longitudinal Data Studies

PL 2009, Chapter 448 was a Committee Amendment that incorporated the concerns of all parties private and public, was a unanimous Education Committee report and was enacted in the Maine Legislature without a roll call vote.

1. It reallocates the provisions establishing the Maine Statewide Longitudinal Data System from the Maine Revised Statutes, Title 20-A, chapter 606-B to chapter 221, subchapter 1, which pertains to student records.

2. It provides that the Department of Education shall develop and maintain the Maine Statewide Longitudinal Data System and authorizes the Commissioner to collect and report individual student social security numbers to implement that statewide longitudinal data system.

3. It provides that if the Commissioner of Education requires a school administrative unit to collect and report individual social security numbers, that the school administrative unit must notify parents in the annual notice required under the federal Family Educational Rights and Privacy Act of 1974, "FERPA," that the data is being collected and used for longitudinal data purposes and that the school administrative unit requests that the parent provides written consent to use the child's social security number for the collection of longitudinal data for the parent's child.

4. It provides that the parental notification must include an explanation of the parent's right that the child's social security number is not required as a condition of enrollment and that the child's social security number may not be used for longitudinal data purposes unless the parent provides prior written consent. It also provides that when a student attains 18 years of age, the written consent required of the parent, and the rights accorded to the parent, are thereafter required of and accorded to the student.

5. It clarifies that personally identifiable information contained in an educational record that is not directory information as defined by FERPA may only be released to other state agencies and postsecondary education institutions under a signed memorandum of understanding in compliance with FERPA.

6. It directs the Commissioner of Education to send an administrative letter to superintendents, principals and school counselors on the establishment of the Maine Statewide Longitudinal Data System, including suggested language to be included in the annual notice to parents required under FERPA that explains a parent's right that the child's social security number is not required as a condition of enrollment and that the child's social security number may not be used for the purposes of the Maine Statewide Longitudinal Data System unless the parent provides prior written consent.

State of Maine
DEPARTMENT OF EDUCATION

Testimony of Susan Gendron, Commissioner of the Department of Education

In Support Of: L.D. 1356

An Act To Improve the Ability of the Department of Education To Conduct Longitudinal Data Studies

Before the Joint Standing Committee on Education and Cultural Affairs

Sponsored by: Senator Mills

Cosponsored by: Senators Bartlett, Jackson, Rector, and Weston, President Mitchell, and Representatives Crockett, Lovejoy, Miller, Piotti, Stuckey, and Sutherland

Date: May 6, 2009

Senator Alford, Representative Sutherland, and Members of the Joint Standing Committee on Education and Cultural Affairs:

My name is Susan Gendron, Commissioner, and I am representing the Department of Education speaking in support of L.D. 1356 An Act to Improve the Ability of the Department of Education to Conduct Longitudinal Data Studies.

The intent of L.D. 1356 is to improve the ability of the Department of Education to conduct longitudinal data studies by permitting the use of social security numbers for the tracking of individual student enrollment history and achievement data over time.

While the Department of Education understands the concerns about the confidentiality of the social security number, it does serve as an important link in State agency data sharing. The University of Maine System, Community Colleges and Department of Labor each maintain their own separate data systems and, unlike the Department of Education, all store the social security number in their databases. The social security number is not meant to be used as a student's unique identifier, but would only be used as a common link between secondary, postsecondary and labor data. These data are essential for evaluating the effectiveness of education programs and curriculum in impacting postsecondary and labor market outcomes.

In addition LD 1356 will support the following initiatives:

- *American Recovery and Reinvestment Act (ARRA)* areas of reform - "Gathering information to improve student learning, teacher performance, and college and career-readiness through enhanced data systems that track progress" and accounts for over \$294 million in PreK-20 federal funds.

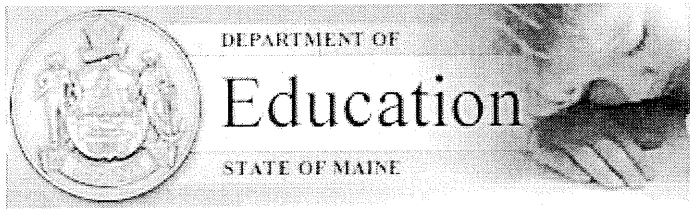
- Initiatives which may require the Department of Education to integrate an educational attainment database that permits integration with labor market data systems.

Creating a fully integrated longitudinal PreK-20 database is a goal of the Department of Education. The Department is currently midway through a three-year \$3.25 million federally funded project to create a K-12 longitudinal data system (LDS). Additional funding will be made available through a competitive ARRA longitudinal data system grant. The initial Statewide Longitudinal Data Systems program provided grants to State Education Agencies to enable them to design, develop, and implement statewide, longitudinal data systems to efficiently and accurately manage, analyze, disaggregate and use individual student data. As provided for under ARRA, funding available under the new competition is to be used for statewide data systems that, in addition to K-12 data, also include postsecondary and workforce information. L.D. 1356 will position Maine well to receive millions of dollars of additional grant funding by demonstrating the State's commitment to sharing of student data with postsecondary and workforce systems and facilitating that process.

The longitudinal data system complies with the State Office of Information Technology security policies and is prohibited from releasing any individually identifiable student data protected by the Family Educational Rights and Privacy Act (FERPA).

The bill also has language for the parent to opt out of the collection of data for the parent's child.

For these reasons, the Department supports L.D. 1356 An Act To Improve the Ability of the Department of Education To Conduct Longitudinal Data Studies. I would be happy to answer any questions the Committee may have, and I will be available for work sessions on this bill.



Postponement of Requirement to Collect Student Social Security Numbers

INFORMATIONAL LETTER NO: 28

POLICY CODE: JF/KLL

TO: Superintendents

FROM: Susan A. Gendron, Commissioner

DATE: September 22, 2009

RE: Postponement of Requirement to Collect Student Social Security Numbers

The purpose of this informational letter is to inform you that the Department of Education will delay implementation of the requirements of PL Chapter 448 (LD 1356), including the possible collection of student social security numbers, until the 2010-11 school year.

The reason for the delay is that there is a need to increase awareness about the passage of the law, as well as to provide guidance for its implementation by school systems. Also, because FERPA disclosure statements and requests for data by school administrative units have already gone out for the current school year, we believe that implementation now would present an additional burden. While the law went into effect on September 12, 2009, it does not require school units to implement it until after receiving guidance from the Commissioner of Education. Thus, the delay does not put any school unit at risk of noncompliance.

If you have additional questions, please do not hesitate to contact Bill Hurwitch, Director Statewide Longitudinal Data System, at Bill.Hurwitch@maine.gov or 624-6816.

http://www.maine.gov/tools/whatsnew/index.php?topic=edu_letters&id=79625&v=article

PLEASE NOTE: The Office of the Revisor of Statutes **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

Public Law
124th Legislature
First Regular Session

Chapter 448
S.P. 491 - L.D. 1356

**An Act To Improve the Ability of the Department of
Education To Conduct Longitudinal Data Studies**

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 20-A MRSA §6005 is enacted to read:

§ 6005. Maine Statewide Longitudinal Data System

The department shall develop and maintain the Maine Statewide Longitudinal Data System, a continuing program of information management, the purpose of which is to compile, maintain and disseminate information concerning the educational histories, placement, employment and other measures of success of participants in state educational programs. The commissioner may require a school administrative unit to collect and report individual student social security numbers to implement the Maine Statewide Longitudinal Data System only if additional federal funding is received to expand the department's kindergarten to grade 12 longitudinal data system existing as of the effective date of this section to a statewide system.

1. Placement information. A project conducted by the department that requires placement information must use information provided through the Maine Statewide Longitudinal Data System. The department shall implement an automated system that matches the social security numbers of former participants in state educational and training programs with information in the files of state and federal agencies that maintain educational, employment and United States armed services records and shall implement procedures to identify the occupations of those former participants whose social security numbers are found in employment records.

2. Dissemination of education records. The Maine Statewide Longitudinal Data System may not make public any information that could identify an individual or the individual's employer. The department must ensure that the purpose of obtaining placement information is to evaluate and improve education programs or to conduct research for the purpose of improving education services. Education records must be managed in compliance with the federal Family Educational Rights and Privacy Act of 1974, 20 United States Code, Section 1232g, referred to in this section as "FERPA." Personally identifiable information in an education record that is not directory information may be released to other agencies within State Government, including postsecondary institutions, only under a signed memorandum of understanding requiring compliance with FERPA.

3. Notification and consent. If the commissioner requires a school administrative unit to collect and report individual social security numbers pursuant to section 15689-B, subsection 7, the school administrative unit must notify parents in the annual notice required under FERPA that the data is being collected and used for longitudinal data purposes and must request the parent to provide written consent to use the child's social security number for the collection of longitudinal data. The parental notification must include an explanation of the parent's right that the child's social security number is not required as a condition of enrollment and that the child's social security number may not be used for longitudinal data purposes unless the parent provides prior written consent. When a student attains 18 years of age, the written consent must be obtained from the student, and the rights accorded to the parent before the student attained 18 years of age are then accorded to the student.

Sec. 2. 20-A MRSA §15689-B, sub-§7, as amended by PL 2007, c. 539, Pt. C, §13, is further amended to read:

7. Required data; subsidy payments withheld. A school administrative unit shall provide the commissioner with information that the commissioner requests to carry out the purposes of this chapter, according to time schedules that the commissioner establishes. For the purposes of the Maine Statewide Longitudinal Data System established pursuant to section 6005, the commissioner may require a school administrative unit to collect and report individual student social security numbers. The commissioner may withhold monthly subsidy payments from a school administrative unit when information is not filed in the specified format and with specific content and within the specified time schedules. If the school administrative unit files the information in the specified format, the Department of Education department shall include the payment of the withheld subsidy in the next regularly scheduled monthly subsidy payment.

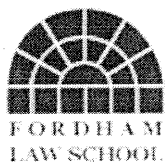
Sec. 3. Administrative letter. The Commissioner of Education shall send an administrative letter to superintendents, principals and school counselors regarding the establishment of the Maine Statewide Longitudinal Data System pursuant to the Maine Revised Statutes, Title 20-A, section 6005. The letter must provide school officials with information regarding the requirements of this Act, including suggested language to be included in the annual notice to parents required under the Family Educational Rights and Privacy Act of 1974. The suggested language for parental notification must include an explanation of a parent's right that the child's social security number is not required as a condition of enrollment and that the child's social security number may not be used for the purposes of the Maine Statewide Longitudinal Data System unless the parent provides prior written consent.

Effective September 12, 2009

CHILDREN'S EDUCATIONAL RECORDS AND PRIVACY

A STUDY OF ELEMENTARY AND SECONDARY SCHOOL STATE REPORTING SYSTEMS

October 28, 2009



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CHILDREN'S EDUCATIONAL RECORDS AND PRIVACY: A STUDY OF ELEMENTARY AND SECONDARY SCHOOL STATE REPORTING SYSTEMS

EXECUTIVE SUMMARY

Among state departments of education there has been a growing trend to establish statewide longitudinal databases of all K-12 children within a state in order to track students' progress and change over time. This trend is accompanied by a movement to create uniform data collection systems so that each state's student data systems are interoperable with one another. These two trends raised privacy concerns that we examine in this study. First, we were concerned with the way states were ensuring the privacy of their K-12 students. Specifically, our goal was to investigate what type of data was being collected and whether children were protected legally and technically from data misuse, improper data release, and data breaches. Second, we were concerned with the ease with which individual interoperable state data systems could potentially be combined to create a national database of all K-12 children.

We reviewed publicly available information from all 50 states and found that privacy protections for the longitudinal databases were lacking in the majority of states. We found that most states collected information in excess of what is needed for the reporting requirements of the No Child Left Behind Act and what appeared needed to evaluate overall school progress. The majority of longitudinal databases that we examined held detailed information about each child in what appeared to be non-anonymous student records. Typically, the information collected included directory, demographic, disciplinary, academic, health, and family information. Some striking examples are that at least 32% of the states warehouse children's social security numbers, at least 22% of the states record children's pregnancies, at least 46% of the states track mental health, illness, and jail sentences as part of the children's educational records, and almost all states with known programs collect family wealth indicators.

We found that, given the detailed and sensitive nature of the information collected, the databases generally had weak privacy protections. Often the flow of information from the local educational agency to the state department of education was not in compliance with the privacy requirements of the Family Educational Rights and Privacy Act. One state, New Jersey, even diverts special education medicaid funding to pay for an out-of-state contractor to warehouse data, including medical test results. Many states do not have clear access and use rules regarding the longitudinal database and over 80% of the states apparently fail to have data retention policies and are thus likely to hold student information indefinitely. Several states, like Montana, outsource the data warehouse without any protections for privacy in the vendor contract.

From our review, we were able to formulate several critical recommendations that we believe will increase the privacy, transparency, and accountability of these longitudinal databases:

- 1) Data at the state level should be anonymized through the use of dual database architectures;
- 2) Third party processors of educational records should have comprehensive agreements that explicitly address privacy obligations;

- 3) The collection of information by the state should be minimized and specifically tied to an articulated audit or evaluation purpose;
- 4) Clear data retention policies should be instituted and made mandatory;
- 5) Access and permissible use policies should be well articulated and specific in nature;
- 6) Audit logs of access to and use of the state databases should be maintained as a guard against unauthorized data processing;
- 7) Information about the database, its security, and its use should be readily available and verifiable.
- 8) States should have a Chief Privacy Officer in the department of education who assures that privacy protections are implemented for any educational record database and who publicly reports privacy impact assessments for database programs, proposals, and vendor contracts.



State of Maine

Office of Information Technology
Department of Administrative and Financial Services

Provided to RTKAC
12/1/09 Meeting

Memorandum

To: Right to Know Committee
From: Richard B. Thompson, CIO
Date: December 1, 2009
Re: Transparency on Maine.gov

The State is in possession of a huge amount of information. The information is collected and organized to support the delivery of state programs and services, and generally resides within the internal systems that support it. It has historically been viewed by program managers as ancillary to the services it supports without aforethought to its intrinsic value as public information. Indeed it is organized and formatted to support those services over any other end and while vast amounts of it are public in nature it is frequently mixed with data not appropriate for public consumption.

With a few notable exceptions¹ the State deals with formal requests for this information on an ad hoc basis. Without the benefit of anticipation, each event, even repeat requests, are frequently treated as customized information delivery service requests. The results are often expensive and inconsistent. We are seeing more frequent, larger and more sophisticated requests for information. Given the public's increasing appreciation and appetite for State held data.

Public data frequently...

- Resides on internal systems.
- Has proprietary formatting.
- Is mixed with non-public data.

Two recent actions in Maine have demonstrated the advantage and challenges to making more data public as a strategic initiative. ARRA stimulus funding requires specific reporting to meet particular Federal standards. Over \$250,000 from stimulus funding will be spent to complete the necessary interfaces and data collection systems to meet those requirements. While much of this investment is transferable, there will be additional cost if a definitive schedule and data composition is required immediately. Contracts, purchase orders will be next to be added to the ARRA site and within a few months, available going forward for new or amended contracts. General expense information is more difficult to post when by transaction. ARRA funding has been used for relatively narrow purposes and as such can be easily segregated from other transactions. Some expenditures by the State are for various programs of social

¹ For example Data requests handled under the InforME Statute.

services or others that cannot be made public individually. The effort to create extracts that redact this information requires study and resources are currently not available.

INFORME, the Board that manages Maine's portal has worked with its service provider to establish a data share web presence where raw data of various types can be posted by agency custodians and made available for view with simple tools. This is voluntary at this time, but many agencies are posting or planning to post data. It is time to consider a more proactive approach towards serving the public's interest in state held data.

Public data in other states

Many states have ongoing transparency initiatives. Most appear to be highly crafted "open check book" presentations rather than open data publication programs². Over the last year several states (similar to Maine's data share described above and hosted at www.maine.gov/data) have created public data repositories³ based on the assumption that program data, in addition to fiscal data, is of interest to the public and should be presumptively placed before them. While these efforts represent positive movement it should be noted that the data that makes it to these repositories is limited to those types of data sets that are naturally bereft of sensitive information and are absolutely uncontroversial. To some extent these efforts can be described as attempt to organize data already published or likely to be published. Given that independent funding for these efforts is scarce the data published here in addition to being limited is also prone to becoming stale over time. Other states that have active efforts to create central repositories for publishing data include Massachusetts⁴, California⁵ and Utah⁶.

A Proactive Approach

Planning a proactive and thoughtful approach to publishing public information in lieu of handling data requests requires that we take steps to fully understand the data on hand, its value, and its risks, the public's expectations for its availability and the effort it takes to provide it. One affordable strategy would be to require all new systems or systems being

² <http://sunshinereview.org>

³ 8 Open Government Data Principles from NASCIO **A Call to Action for State Government: Guidance for Opening the Doors to State Data** (September 2009)

1. **Complete** - All public data are made available. Public data are data that are not subject to valid privacy, security or privilege limitations.
2. **Primary** - Data are collected at the source, with the finest possible level of granularity, not in aggregate or modified forms.
3. **Timely** - Data are made available as quickly as necessary to preserve the value of the data.
4. **Accessible** - Data are available to the widest range of users for the widest range of purposes.
5. **Machine processable** - Data are reasonably structured to allow automated processing.
6. **Non-discriminatory** - Data are available to anyone, with no requirement of registration.
7. **Non-proprietary** - Data are available in a format over which no entity has exclusive control.
8. **License-free** - Data are not subject to any copyright, patent, trademark or trade secret regulation. Reasonable privacy, security and privilege restrictions may be allowed.

⁴ <https://wiki.state.ma.us/confluence/display/data>

⁵ <http://www.california.gov/data/>

⁶ <http://www.utah.gov/data/>

significantly update or modified to undergo analysis and to plan public posting of all non-protected data. While this would potentially increase the cost of a system or modification to some degree, it is by far the most efficient mechanism to create a lasting system to provide information on line. Once in place, this should be considered an acceptable response to a data request for this information. A similar strategy might be used as a response to the first request or a data set, but usually the time to respond prevents a planful implementation strategy for a long term solution.

At a minimum the effort would involve the following for any area of state government deemed likely to possess data of interest to the public:

- Identify and catalog public information needed to support existing and prospective programs. Pay particular attention to those records for which there is evidence of public interest.
- Where possible take measures to segregate public from non-public information and integrate this separation as a part of normal operations.
- The establishment of technical data standards that avoid locked proprietary formats.
- When segregation is not practical, or when in its native state it is in a proprietary format, develop views that present the data in a way that is appropriate for public consumption.
- Make available catalogs and indexes of published data and data views.
- Where practical integrate these considerations into the acquisition of new systems.

Benefits of a Proactive Approach

- Avoiding reactive efforts to locate and condition data for public consumption.
- Avoiding redoing data mining efforts for similar but different requests.
- Redaction of sensitive information can be handled as a function of systems design rather than as a manual undertaking.
- Allowing program staff to stay focused on mission oriented efforts.
- Improving the understanding of program staff of the implications and obligations in public data collection and retention.
- Improving the quality of second hand published data since an authorized definitive version is available for reference.
- Encouraging public engagement and independent exploitation of public data.⁷

Risks

- Iterative approach is slow, funding is limited
- As access to public data is increased:

⁷ For examples of programmatic elaborations on public data feeds see <http://www.massdotdevelopersconference09.com/visualization>.

- Presumptions held by the public about the privacy of their government transactions will be tested.
 - Statutory protections may be found to be inadequate with application of modern indexing and matching algorithms.
- The added effort to address data concerns may inhibit new program startups.
- Resources may be expended on publishing data no one is interested in

Right to Know Advisory Committee
Legislative Subcommittee Discussion Draft---Changes highlighted
Guidance on the Use of Email or Other Electronic Communication by Elected Officials

Proposed New FAQ to be added to website:

Can members of a body communicate with one another by email outside of a public proceeding?

There is no legal prohibition against email communication between members of a public body outside of a public proceeding. However, email communication among a quorum of the members of a body used as a substitute for deliberations or decisions which should properly take place at a public meeting may likely be considered a "meeting" in violation of the statutory requirements for open meetings and public notice. "Public proceedings" are defined in part as "the transactions of any functions affecting any or all citizens of the State..." 1 MRSA § 402. The underlying purpose of the Freedom of Access law is that public proceedings be conducted openly and that deliberations and actions be taken openly; clandestine meetings should not be used to defeat the purpose of the law. 1 MRSA § 401. Public proceedings must be conducted in public and any person must be permitted to attend and observe the body's proceeding although executive sessions are permitted under certain circumstances. 1 MRSA § 403. In addition, public notice must be given for a public proceeding if the proceeding is a meeting of a body or agency consisting of 3 or more persons. 1 MRSA § 406.

Members of a body should refrain from the use of email as a substitute for deliberating or deciding substantive matters properly confined to public proceedings. Email is permissible to communicate with other members about non-substantive matters such as scheduling meetings, developing agendas and disseminating information and reports.

Email is a public record (likely even when sent using a member's personal computer) if it contains information relating to the transaction of public or governmental business unless the information is designated as confidential or excepted from the definition of a public record. 1 MRSA § 402, sub-§ 3. As a result, members of a body should be aware that all emails and email attachments relating to the member's participation are likely public records subject to public inspection under the Freedom of Access laws.

Provided to RTKAC
12/1/09

12/1/09

Rep. Stacy Dostie Proposed Legislation

LR 2130 An Act to Further Regulate the Communications of Members of Public Bodies

Sec. 1. 1 MRSA §402, sub-§1-B is enacted to read:

1-B. Electronic mail. "Electronic mail" means a communication sent or delivered by transmission over the Internet.

Sec. 2. 1 MRSA §402, sub-§1-C is enacted to read:

1-C. Group electronic mail. "Group electronic mail" means electronic mail sent to more than one person by means of a single transmission. "Group electronic mail" does not include an identical communication sent by a series of individual transmissions to individual recipients.

Sec. 3. 1 MRSA §402, sub-§5 is enacted to read:

5. Substantive matter. "Substantive matter" means a matter of policy or substance as opposed to a matter of form or procedure. "Substantive matter" does not include administrative issues such as the scheduling of meetings, the dissemination of studies or reports or the development of agendas.

Sec. 4. 1 MRSA §413 is enacted to read:

§413. Prohibited communications

1. Group electronic mail to other members. A member of a body described in section 402, subsection 2, paragraphs A to G may not knowingly send a group electronic mail to a majority of the members of the body regarding a substantive matter.

2. Communicate majority agreement. A member of a body described in section 402, subsection 2, paragraphs A to G may not directly or through an intermediary communicate that a majority of the body is in agreement regarding a substantive matter to a person who is not a member of the body and/or who has an interest in the matter, unless the agreement was previously reached at a public proceeding.

Please Add the Following in the appropriate places... (reword as needed)

All electronic communications between any members of a body containing information relating to a substantive matter are regarded as public records which may be inspected by any person upon request, unless otherwise made confidential by law.

Electronic communication pertaining to a substantive matter by members of a body shall be printed and disclosed to the public at the next public meeting prior to the vote of the body on the substantive matter.

SUMMARY

This bill amends the law governing access to public records and proceedings. This bill:

1. Provides definitions of "electronic mail," "group electronic mail" and "substantive matter";
2. Prohibits a member of a public body from knowingly sending a group electronic mail to a majority of the members of that body regarding substantive matter; and
3. Prohibits a member of a public body from directly or through an intermediary communicating that a majority of that body is in agreement regarding a substantive matter to interested persons who are not members of the body.

Existing Public Records Exceptions Subject to review by 2010

Remaining provisions as of June 29, 2009

Titles 10, 11, 12, 13, 13-B, 13-C, 14, 15, 16, 17, 17-A, 18-A, 18-B, 19-A, 20-A, 21-A

Reflects Actions Taken by Public Records Exception Subcommittee at Sept. 9th; Oct. 13th and Nov. 17th Meetings

	Title	Section	Sub-§	Description	Department/Agency	Comments	Subcommittee Action
2	10	945-J		Title 10, section 945-J, relating to the Maine International Trade Center	<ul style="list-style-type: none"> Maine International Trade Center (Board of Directors?) 	<ul style="list-style-type: none"> 	AMEND 3-0 vote
3	10	975-A	2, 3	Title 10, section 975-A, subsections 2 and 3, relating to the Finance Authority of Maine	<ul style="list-style-type: none"> Finance Authority of Maine 	<ul style="list-style-type: none"> Regularly applied; 3 denials for info per year; used to go into executive session; CHANGE: CLARIFY THAT APPLIES TO PERSONALLY IDENTIFIABLE INFORMATION OF MAINE CONSUMERS 	AMEND 3-0 vote
12	12	550-B	6	Title 12, section 550-B, subsection 6, relating to water well information collected by the Department of Conservation, Bureau of Geology and Natural Areas	<ul style="list-style-type: none"> Department of Conservation, Maine Geological Survey 	<ul style="list-style-type: none"> No FOA requests; exception cited few times per year No changes 	AMEND 3-0 vote
12.2	12	549-B	5	Title 12, section 549-B, subsection 5, paragraph D, relating to investigatory and exploratory work reported under a mining permit to the Bureau of Geology and Natural areas "shall not constitute records available for public inspection or disclosure"	<ul style="list-style-type: none"> Department of Conservation, Maine Geological Survey 	<ul style="list-style-type: none"> Never invoked bring claims process (2 claims pending); no changes 	AMEND 3-0 vote

Existing Public Records Exceptions Subject to review by 2010

Remaining provisions as of June 29, 2009

Titles 10, 11, 12, 13, 13-B, 13-C, 14, 15, 16, 17, 17-A, 18-A, 18-B, 19-A, 20-A, 21-A

Reflects Actions Taken by Public Records Exception Subcommittee at Sept. 9th, Oct. 13th and Nov. 17th Meetings

	Title	Section	Sub-§	Description	Department/Agency	Comments	Subcommittee Action
19	12	6173	1	Title 12, section 6173, subsection 1, relating to marine resources statistics	• Department of Marine Resources	• Approx. 6 requests per month, approx. 2 must be modified to not release confidential data; no changes	ACCEPTED; no change 2-1 Vote
21.1	12	6445		Title 12, section 6445, relating to logbooks for lobster harvesters “disclosure of any data collected under this section is subject to the confidentiality provisions of section 6173”	• Department of Marine Resources	• No requests; no changes	ACCEPTED; no change 2-1 Vote
22	12	6455	1-A	Title 12, section 6455, subsection 1-A, relating to market studies and promotional plans of the Lobster Promotion Council	• Lobster Promotion Council	• Administered infrequently; no changes	AMEND 3-0 vote
22.1	12	6749-S	1	Title 12, section 6749-S, subsection 1 relating to log book for sea urchin buyers and processors “disclosure of any data collected under this section is subject to the confidentiality provisions of section 6173	• Department of Marine Resources	• No FOA denials; no changes	ACCEPTED; no change 2-1 Vote
25	12	8869	13	Title 12, section 8869, subsection 13, relating to forest policy experimental areas	• Department of Conservation, Bureau of Forestry	• No requests; no changes	AMEND 2-1 vote

Existing Public Records Exceptions Subject to review by 2010

Remaining provisions as of June 29, 2009

Titles 10, 11, 12, 13, 13-B, 13-C, 14, 15, 16, 17, 17-A, 18-A, 18-B, 19-A, 20-A, 21-A

Reflects Actions Taken by Public Records Exception Subcommittee at Sept. 9th, Oct. 13th and Nov. 17th Meetings

	Title	Section	Sub-§	Description	Department/Agency	Comments	Subcommittee Action
27	12	8884	3	Title 12, section 8884, subsection 3, relating to landowner and wood processor reporting requirements concerning volume information	<ul style="list-style-type: none"> Department of Conservation, Bureau of Forestry 	<ul style="list-style-type: none"> No requests; no change 	ACCEPTED; no change 2-1 Vote
32	14	1254-A	7	Title 14, section 1254-A, subsection 7, relating to names of prospective jurors and contents of juror qualification forms	<ul style="list-style-type: none"> Judicial Branch Attorney General Maine Prosecutors Association Maine Association of Criminal Defense Lawyers Maine State Bar Association Maine Trial Lawyers Association 	<ul style="list-style-type: none"> JB: requests made at every jury term; seldom allow access absent compelling need; no changes AG: if any changes, make consistent with SJC's Standing Order for Limited Access to Juror Information dated 08/25/06 	DIVIDED 2-2 vote 2 voting NO CHANGE ; 2 voting AMEND

Existing Public Records Exceptions Subject to review by 2010

Remaining provisions as of June 29, 2009

Titles 10, 11, 12, 13, 13-B, 13-C, 14, 15, 16, 17, 17-A, 18-A, 18-B, 19-A, 20-A, 21-A

Reflects Actions Taken by Public Records Exception Subcommittee at Sept. 9th, Oct. 13th and Nov. 17th Meetings

Title	Section	Sub-§	Description	Department/Agency	Comments	Subcommittee Action
33	14	1254-A	8	<ul style="list-style-type: none"> Judicial Branch Attorney General Maine Prosecutors Association Maine Association of Criminal Defense Lawyers Maine State Bar Association Maine Trial Lawyers Association 	<ul style="list-style-type: none"> JB: requests made at every jury term; seldom allow access absent compelling need; no changes AG: if any changes, make consistent with SJC's Standing Order for Limited Access to Juror Information dated 08/25/06 	<p>DIVIDED</p> <p>2-2 vote</p> <p>2 voting NO CHANGE ; 2 voting AMEND</p>
34	14	1254-B	2	<ul style="list-style-type: none"> Judicial Branch Attorney General Maine Prosecutors Association Maine Association of Criminal Defense Lawyers Maine State Bar Association Maine Trial Lawyers Association 	<ul style="list-style-type: none"> JB: requests frequently made but seldom granted absent compelling need; no changes AG: if any changes, make consistent with SJC's Standing Order for Limited Access to Juror Information dated 08/25/06 	<p>DIVIDED</p> <p>2-2 vote</p> <p>2 voting NO CHANGE ; 2 voting AMEND</p>

Existing Public Records Exceptions Subject to review by 2010

Remaining provisions as of June 29, 2009

Titles 10, 11, 12, 13, 13-B, 13-C, 14, 15, 16, 17, 17-A, 18-A, 18-B, 19-A, 20-A, 21-A

Reflects Actions Taken by Public Records Exception Subcommittee at Sept. 9th; Oct. 13th and Nov. 17th Meetings

Title	Section	Sub-§	Description	Department/Agency	Comments	Subcommittee Action
40	16		Title 16, Chapter 3, Subchapter 8: Criminal History Record Information Act	<ul style="list-style-type: none"> Attorney General Department of Public Safety Maine Prosecutors Association Maine Association of Criminal Defense Lawyers Maine Trial Lawyers Association 	<ul style="list-style-type: none"> DPS: Discussion needed; changes recommended 	HOLD; REFER to CLAC for review
41	16	2 1-A	Title 16, section 614, subsection 2 1-A, relating to personally identifying information of persons who report cruelty to animals to the Department of Agriculture, Food and Rural Resources	<ul style="list-style-type: none"> Department of Agriculture, Food and Rural Resources 	<ul style="list-style-type: none"> Requests; no change 	HOLD; REFER to CLAC for review
56	19-A	4013 4	Title 19-A, section 4013, subsection 4, relating to the Domestic Abuse Homicide Review Panel	<ul style="list-style-type: none"> Attorney General 	<ul style="list-style-type: none"> Many records otherwise confidential, panel's findings released when final; no changes 	ACCEPTED; no change 4-0 vote
69	20-A	13004 2-A	Title 20-A, section 13004, subsection 2-A, relating to complaint, charges and accusations concerning certification and registration of teachers (amended PL 2007, c. 666)	<ul style="list-style-type: none"> Department of Education Maine Education Association 	<ul style="list-style-type: none"> DOE: On average once a week; CONSIDER CHANGE: AMBIGUOUS AS WRITTEN 	AMEND-reflect PL 2009, c. 331 3-0 vote

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Public Records Exceptions Subcommittee
DRAFT APPROVED BY SUBCOMMITTEE:
Exception in Title 10, section 945-J (Chart #2)

Sec. 1. 10 MRSA §945-J is amended to read:

10 §945-J. Confidential records

The following records and proceedings of the center are confidential and are not open to public inspection for the purposes of Title 1, chapter 13, except as otherwise provided in this section.

1. Proprietary information; other information. Information provided to or developed by the center and included in a business or marketing plan is ~~confidential so long as public unless~~ the person to whom the information belongs or pertains requests that it be designated as confidential and the center has determined it contains proprietary information if, when made available, the information would allow a person to obtain a business or competitive advantage over another person or would result in significant detriment to the person to whom the information belongs and when the information is not otherwise available in the public domain. For the purposes of this subsection, "proprietary information" means information that is a trade secret or production, commercial or financial information the disclosure of which would impair the competitive position of the center or the person submitting the information and would make available information not otherwise publicly available.

2. Tax or financial information. Any financial statement, supporting data or tax return of any person is confidential.

3. Credit assessment. Any record obtained by the center that contains an assessment of the credit worthiness, credit rating or financial condition of any person is confidential.

This section does not prohibit the disclosure of information that is otherwise available in the public domain.

Public Records Exceptions Subcommittee
PROPOSED DISCUSSION DRAFT Based on Nov. 17th meeting:
Exception in Title 10, section 975-A (Chart #3)

Sec. 1. 10 MRSA § 975-A is repealed.

~~§975-A. Disclosure and confidentiality of records~~

~~1. Disclosure required.~~ Notwithstanding subsections 2 and 3 and except as provided in paragraph F, the following shall be made available to any person upon request reasonably describing the records to which access is sought or, if no request is made, in any manner and at any time which the authority may determine:

~~A. After filing of a written application or proposal for financial assistance or property transfer, in form specified by or acceptable to the authority:~~

- ~~(1) Names of recipients of or applicants for financial assistance, including principals, where applicable;~~
- ~~(2) Amounts, types and general terms of financial assistance provided to those recipients or requested by those applicants;~~
- ~~(3) Descriptions of projects and businesses benefiting or to benefit from the financial assistance;~~
- ~~(4) Names of transferors or transferees, including principals, of property to or from the authority, the general terms of transfer and the purposes for which transferred property will be used;~~
- ~~(5) Number of jobs and the amount of tax revenues projected or resulting in connection with a project;~~
- ~~(6) Upon the authority's satisfaction of its loan insurance liability, the amount of any loan insurance payments with respect to a loan insurance contract; and~~
- ~~(7) Names of financial institutions participating in providing financial assistance and the general terms of that financial assistance;~~

~~B. Any information pursuant to waiver deemed satisfactory by the authority;~~

~~C. Information which, as determined by the authority, has already been made available to the public;~~

~~D. Any information necessary to carry out section 1043 or 1063;~~

~~E. Information necessary to comply with Title 1, section 407, subsection 1;~~

~~F. Information or records specified in a written request signed by the chairmen of a legislative committee shall be provided to the legislative committee. The information or records may be used only for the lawful purposes of the committee and in any action arising out of any investigation conducted by it;~~

~~G. The annual report of the authority required pursuant to section 974.~~

2. Confidential information. The following records are designated as confidential for purposes of Title 1, section 402, subsection 3, paragraph A:

~~A. Any record obtained or developed by the authority prior to receipt of a written application or proposal, in form specified by or acceptable to the authority, for financial~~

Public Records Exceptions Subcommittee
PROPOSED DISCUSSION DRAFT Based on Nov. 17th meeting:
Exception in Title 10, section 975-A (Chart #3)

~~assistance to be provided by or with the assistance of the authority or in connection with a transfer of property to or from the authority. After receipt by the authority of the application or proposal, a record pertaining to the application or proposal shall not be considered confidential unless it meets the requirements of other paragraphs of this subsection;~~

~~B. — Any record obtained or developed by the authority which fulfills the following requirements:~~

~~(1) A person, including the authority, to whom the record belongs or pertains has requested that the record be designated confidential; and~~

~~(2) The authority has determined that information in the record _ gives the owner or a user an opportunity to obtain business or competitive advantage over another person who does not have access to the information, except through _ authority records, or that access to the information by others would result in a business or competitive disadvantage, loss of business or other significant detriment, other than loss or denial of financial assistance from the authority, in the case of a person other than the authority, to any person to whom the record belongs or pertains;~~

~~C. — Any financial statement or tax return of an individual or any other record obtained or developed by the authority the disclosure of which would constitute an invasion of personal privacy, as determined by the authority;~~

~~D. — Any record including any financial statement or tax return obtained or developed by the authority in connection with any monitoring or servicing activity by the authority pertaining to any financial assistance provided or to be provided by or with the assistance of the authority;~~

~~E. — Any record obtained or developed by the authority which contains an assessment by a person who is not employed by the authority of the credit worthiness or financial condition of any person or project;~~

~~F. — Any financial statement or business and marketing plan in connection with any project receiving or to receive financial assistance from the authority pursuant only to subchapters III or IV, except section 1053, subsection 5, if a person to whom the statement or plan belongs or pertains has requested that the record be designated confidential; and~~

~~G. — Any record, including any financial statement, business plan or tax return obtained or developed by the authority in connection with the matching of potential investors with Maine businesses by the authority through its maintenance of a data base or other record keeping system. For purposes of this section, an application by a potential investor shall not be deemed to be an application for financial assistance.~~

3. Wrongful disclosure prohibited; further exceptions. ~~No member, officer, employee, agent, other representative of the authority or other person may knowingly divulge or disclose records declared confidential by this section, except that the authority may, in its discretion, make or authorize any disclosure of information of the following types or under the following circumstances:~~

~~A. — Impersonal, statistical or general information;~~

Public Records Exceptions Subcommittee
PROPOSED DISCUSSION DRAFT Based on Nov. 17th meeting:
Exception in Title 10, section 975-A (Chart #3)

~~B. If necessary in connection with processing any application for, obtaining or maintaining financial assistance for any person or in connection with acquiring, maintaining or disposing of property;~~

~~C. To a financing institution or credit reporting service;~~

~~D. Information necessary to comply with any federal or state law, including section 979, or rule or with any agreement pertaining to financial assistance;~~

~~E. Information to the extent the authority deems the disclosure necessary to the sale or transfer of revenue obligation securities or to the sale or transfer of bonds of the State;~~

~~F. If necessary to assure collection of any obligation in which it has or may have an interest;~~

~~G. In any litigation or proceeding in which the authority has appeared, introduction for the record of any information obtained from records declared confidential by this section; and~~

~~H. Pursuant to a subpoena, request for production of documents, warrant or other order by competent authority, provided that any such order appears to have first been served on the person to whom the confidential information sought pertains or belongs and provided that any such order appears on its face or otherwise to have been issued or made upon lawful authority.~~

~~4. **Records on effective date.** Whether any record in the possession of the authority on the effective date of this section is confidential shall be determined pursuant to this section and not pursuant to the law in effect when the authority or any of its predecessors obtained any such record and any such record shall or may be disclosed or divulged to the extent required or permitted by this section.~~

Sec. 2. 10 MRSA § 975-B is enacted to read:

§ 975-B. Freedom of access; confidentiality of records

The records of the authority are subject to the freedom of access laws, Title 1, chapter 13, except as specifically provided in this section.

1. Confidential records. The following records are designated as confidential for purposes of Title 1, section 402, subsection 3, paragraph A:

A. A record obtained or developed by the authority that:

(1) A person, including the authority to whom the record belongs or pertains has requested be designated confidential; and

(2) The authority has determined contains information that gives the owner or a user an opportunity to obtain business or competitive advantage over another person who does not have access to the information, except through the records, or access to which by others would result in a business or competitive disadvantage, loss of business or other significant detriment to any person to whom the record belongs or pertains; and

Public Records Exceptions Subcommittee
PROPOSED DISCUSSION DRAFT Based on Nov. 17th meeting:
Exception in Title 10, section 975-A (Chart #3)

B. A financial statement or tax return.

The authority shall provide to a legislative committee, on written request signed by the chairs of that committee, any information or records, including information designated confidential under this subsection, specified in the written request. The information or records may be used only for the lawful purposes of the committee and in any action arising out of any investigation conducted by it and may not be released for any other purpose.

2. Exceptions. Notwithstanding subsection 1, the following are not confidential and are public records:

A. Any otherwise confidential information the confidentiality of which the authority determines to have been satisfactorily and effectively waived;

B. Any otherwise confidential information that has already lawfully been made available to the public; and

C. Impersonal, statistical or general information.

3. Disclosure prohibited; further exceptions. A person may not knowingly divulge or disclose records designated confidential by this section, except that the authority, in its discretion and in conformity with legislative freedom of access criteria in Title 1, chapter 13, subchapter 1-A, may make or authorize any disclosure of information of the following types or under the following circumstances:

A. If necessary in connection with processing any application for, obtaining or maintaining financial assistance for any person;

B. To a financing institution or credit reporting service;

C. Information necessary to comply with any federal or state law or rule or with any agreement pertaining to financial assistance;

D. If necessary to ensure collection of any obligation in which the authority has or may have an interest;

E. In any litigation or proceeding in which the authority has appeared, introduction for the record of any information obtained from records designated confidential by this section; and

F. Pursuant to a subpoena, request for production of documents, warrant or other order by competent authority, as long as any such order appears to have first been served on the person to whom the confidential information sought pertains or belongs and as long as any such order appears on its face or otherwise to have been issued or made upon lawful authority.

Public Records Exceptions Subcommittee
DRAFT APPROVED BY SUBCOMMITTEE:
Exception in Title 12, section 550-B, subsection 6 (Chart #12)

Sec. 1. 12 MRSA § 550-B is amended to read:

§550-B. Water well information

1. Definitions. As used in this chapter, unless the context indicates otherwise, the following terms have the following meanings.

- A. "Well" means any hole constructed by any method for the purpose of extracting water from below the ground.
- B.
- C. "Well drilling company" means a person, firm, partnership or corporation that owns or otherwise operates any mechanical equipment used to drill, drive or bore water wells.

2. Exemptions. Wells for which data reports are already required by any state agency are exempt from the reporting requirements of this chapter.

3. Water well information documentation. Completion reports shall be filed according to this subsection.

- A. Within 30 days after completion of any well or dry hole, or the enlarging or deepening of an existing well, a well drilling company shall submit a report to the Bureau of Geology and Natural Areas, on forms designed and provided by the Bureau of Geology and Natural Areas. The report must contain information as may be required by the Bureau of Geology and Natural Areas, including, but not limited to, location, construction and well yield.
- B. Any well drilling company that has engaged in the construction of water wells, but who has not submitted well completion reports on a timely basis as required by this chapter, is in violation of this chapter.

4. Compliance with other laws and rules. Notwithstanding the provisions set forth in this chapter, all wells are to be constructed and maintained in accordance with all other laws and rules in effect.

5. Penalties. A well drilling company that violates any standard or provision of this chapter, commits a civil violation for which a forfeiture of not more than \$500 may be adjudged. In addition to other civil remedies, the court may issue an injunction.

6. Information use. Information collected by the Bureau of Geology and Natural Areas, Maine Geological Survey under this ~~section~~ chapter is ~~exempt from~~ subject to Title 1, chapter 13, subchapter I unless the well drilling company to whom the information belongs or pertains requests that it be designated as confidential and the bureau has determined it contains proprietary information. For the purposes of this subsection, "proprietary information" means information that is a trade secret or production, commercial or financial information the disclosure of which would impair the competitive position of the person submitting the information and would make available information not otherwise publicly available. The Bureau of Geology and Natural Areas, Maine Geological Survey shall make information collected under this chapter available to any federal, state or municipal entity or authorized agent of such entity.

Public Records Exceptions Subcommittee
DRAFT APPROVED BY SUBCOMMITTEE:
Exception in Title 12, section 549-B, sub-§§ 5 and 13 (Chart #12.2)

Sec. 1. 12 MRSA § 549-B, sub-§ 5, ¶ D is amended to read:

D. An affidavit of investigatory and exploratory work shall be filed each year with the director of the survey on June 30th. At the time of filing that affidavit, the claimant shall demonstrate to the director that investigatory work has been performed on that claim at a rate of at least \$5 per acre during the year ending June 30th. For claims recorded after April 1st and before June 30th, the first affidavit of investigatory and exploratory work shall be filed on the 2nd June 30th following. All work done shall be described in the affidavit and shall include work which tends to reveal such characteristics of the material sought as length, width, depth, thickness, tonnage and mineral or metal content, or, with respect to nonmetallic minerals, other physical characteristics of the deposit relating directly to the commercial exploitation of the deposit and such other information relating to the exploration work as the director of the survey may require. ~~This information may be shared with other governmental agencies, but shall not constitute records available for public inspection or disclosure pursuant to Title 1, section 408, during the period of time in which the claim is in effect. During the period of time in which the claim is in effect, this information is confidential for the purposes of Title 1, section 402, subsection 3, paragraph A and may not be disclosed, except that the information may be shared with other governmental agencies.~~

Sec. 2. 12 MRSA § 549-B, sub-§ 13 is amended to read:

13. Annual reports. Any person with a mining lease engaged in mine development or mining under this subchapter shall, in the month of June following the year the operation was carried on, pay all applicable fees, rentals and royalties and file an annual report with the director of the survey and director of the agency having jurisdiction over the state-owned land setting forth:

- A. The location of the operation;
- B. The quality and grade of mineral products or ores produced;
- C. The amount of royalty which has accrued on material extracted;
- D. The number of persons ordinarily employed at operation below ground and above ground; and
- E. Any other information, relating to the mining lease, mine development or mining, the director of the bureau and the director of the agency having jurisdiction over the state-owned lands may require by regulation.

~~This information may be shared with other government agencies, but shall not constitute records available for public inspection or disclosure pursuant to Title 1, section 408. This information is confidential for the purposes of Title 1, section 402, subsection 3, paragraph A and may not be disclosed, except that the information may be shared with other governmental agencies.~~

Public Records Exceptions Subcommittee
DRAFT APPROVED BY SUBCOMMITTEE:
Exception in Title 12, section 6455, subsection 1-A (Chart #22)

Sec. 1. 12 MRSA §6455, sub-§ 1-A is amended to read:

1-A. Council is a public instrumentality. The council is established as a public instrumentality serving a public purpose. As a public instrumentality:

A. Employees of the council may not be construed to be state employees for any purpose, including the state civil service provisions of Title 5, Part 2 and Title 5, chapter 372 and the state retirement system provisions of Title 5, Part 20;

B. The council may not be construed to be a state agency for any purposes, including the budget, accounts and control, auditing, purchasing or other provisions of Title 5, Part 4; and

C. Notwithstanding any provisions of paragraphs A and B:

(1) All meetings and records of the council are subject to the provisions of Title 1, chapter 13, subchapter I, except as provided in subsection 1-B~~that, by majority vote of the members, the council may designate market studies or promotional plans developed or funded by the council as confidential~~. The commissioner and those members of the Legislature appointed to serve on the joint standing committee of the Legislature having jurisdiction over marine resource matters have access to all material designated confidential by the council;

(2) Except as required by subsection 2, members of the council are governed by the conflict of interest provisions set forth in Title 5, section 18; and

(3) For the purposes of the Maine Tort Claims Act, the council is a "governmental entity" and its employees are "employees" as those terms are defined in Title 14, section 8102.

Sec. 2. 12 MRSA § 6455, sub-§ 1-B is enacted to read:

1-B. Market studies and promotional plans: proprietary information.
Information provided to or developed by the council and included in a promotional plan or market study is public unless the council determines that it contains proprietary information. For the purposes of this subsection, "proprietary information" means information that is a trade secret or production, commercial or financial information the disclosure of which would impair the competitive position of the council or the person submitting the information and would make available information not otherwise publicly available.

Public Records Exceptions Subcommittee
DRAFT APPROVED BY SUBCOMMITTEE:
Exception in Title 12, section 8869, subsection 13 (Chart #25)

Sec. 1. 12 MRSA § 8869, sub-§ 13 is amended to read:

13. (TEXT EFFECTIVE UNTIL 7/1/12) (TEXT REPEALED 7/1/12)
Confidential information. Information provided to the bureau voluntarily or to fulfill reporting requirements for the purposes of establishing and monitoring outcome-based forest policy experimental areas, as created pursuant to section 8003, subsection 3, paragraph Q, is public unless the person to whom the information belongs or pertains requests that it be designated as confidential for the purposes of Title 1, section 402, subsection 3, paragraph A and the bureau has determined it contains proprietary information For the purposes of this subsection, “proprietary information” means information that is a trade secret or production, commercial or financial information the disclosure of which would impair the competitive position of the person submitting the information and would make available information not otherwise publicly available. ~~designated as confidential if the bureau has determined that failure to designate the information as confidential would provide competitors an opportunity to obtain business or competitive advantage over the person to whom the information belongs or pertains or would result in loss or other significant detriment to that person.~~ The bureau, working with the landowner and the panel of technical experts appointed under subsection 3-A, may publish reports as long as those reports do not reveal confidential information. This subsection is repealed July 1, 2012.

Right to Know Advisory Committee
PROPOSED DRAFT
Juror confidentiality: Divided report (Chart # 32-34)

Sec. 1. 14 MRSA §1254-A is amended to read:

§1254-A. Qualification questionnaire; juror selection

1. Procedure. The clerk shall, at times considered reasonable and necessary to promote the efficient operation of the court and the juror selection system, mail a juror qualification form to every prospective juror whose name has been drawn in accordance with section 1253-A. The form must be accompanied by instructions directing the prospective juror to fill out and return the form by mail to the clerk within the time specified. The clerk shall prepare or cause to be prepared a list of the names to whom questionnaires are mailed. The list of questionnaire recipients and the names drawn are confidential and may not be disclosed to any person, except as provided in this chapter.

2. Content. The juror qualification form must conform, in form and content, to the qualification form prescribed by the Supreme Judicial Court and must solicit information sufficient to determine the prospective juror's qualification for jury service. The qualification questionnaire may also solicit other information including, but not limited to, education and employment.

3. Ambiguous or erroneous responses. If it appears there is an omission, ambiguity or error in a returned form, the clerk may, at the clerk's discretion, contact the prospective juror by telephone to obtain the additional information, clarification or correction.

4. Failure to complete form; penalty. A prospective juror who fails to return a completed juror qualification form as instructed may be ordered by the court to appear and show cause why the prospective juror should not be held in contempt for the failure to complete and submit the questionnaire. Notwithstanding Title 17-A, section 4-A, a prospective juror who fails to show good cause for the failure to complete and submit the questionnaire or who without good cause fails to appear pursuant to a court order may be punished by a fine of not more than \$100 and by imprisonment for not more than 3 days, or by both.

5. Intentional misrepresentation. Notwithstanding Title 17-A, section 4-A, a person who intentionally misrepresents a material fact on a juror qualification form for the purpose of avoiding or securing service as a juror may upon conviction for a violation of this section be punished by a fine of not more than \$100 and by imprisonment for not more than 3 days, or by both.

6. Determination of qualification. The clerk shall determine on the basis of information provided on the juror qualification form, supplemented by other competent evidence when considered necessary to such determination, whether the prospective juror

Right to Know Advisory Committee
PROPOSED DRAFT
Juror confidentiality: Divided report (Chart # 32-34)

is qualified for jury service. This determination must be reflected on the juror qualification form or any other record designated by the court.

7. Availability of qualification forms. ~~The A person seeking the names of prospective jurors and the contents of juror qualification forms are confidential and may not be disclosed except as provided in this chapter~~ may file with the court a written request for disclosure of the information. The request must be accompanied by an affidavit stating the basis for the request. The court shall disclose the information unless the court determines in any instance that the information in the interests of justice should be kept confidential or its use limited in whole or in part. ~~The names of prospective jurors and the contents of juror qualification forms may at the discretion of the court be made available to the attorneys and their agents and investigators and the pro se parties at the courthouse for use in the conduct of voir dire examination.~~

8. During period of service. ~~During the period of service of jurors and prospective jurors, the names of the members of the jury pool are confidential and may not be disclosed except to the attorneys and their agents and investigators and the pro se parties.~~

8-A. Jurors. When jury selection is complete, a person seeking the names of the jurors may file with the court a written request for disclosure of the names of the jurors. The request must be accompanied by an affidavit stating the basis for the request. The court shall disclose the names of the jurors unless the court determines that the information in the interests of justice should be kept confidential or its use limited in whole or part.

9. Protection of confidentiality. A person who has access to or receives information or a record designated confidential under this chapter shall maintain the confidentiality of the information or record and use it only for the purposes for which it was released and may not further disclose it except as authorized by the court at the time of the disclosure to that person.

Sec. 2. 14 MRSA §1254-B is amended to read:

§1254-B. Preservation of records

1. Records preserved. The clerk shall cause to be preserved all records and lists compiled and maintained in connection with selection and service of jurors for the length of time ordered by the court.

Right to Know Advisory Committee

PROPOSED DRAFT

Juror confidentiality: Divided report (Chart # 32-34)

2. Records' confidentiality. The records and information used in connection with the selection process are confidential and may not be disclosed except as provided in this chapter.

3. Exceptions to confidentiality. Once the period of juror service has expired, a person seeking the names of the jurors may file with the court a written request for disclosure of the names of the jurors. The request must be accompanied by an affidavit stating the basis for the request. The court ~~may~~ shall disclose the names of the jurors ~~only~~ if unless the court determines that the ~~disclosure is~~ information in the interests of justice should be kept confidential or its use limited in whole or part. The factors the court may consider in determining if the ~~disclosure~~ keeping the information confidential is in the interests of justice include, but are not limited to, encouraging candid responses from prospective jurors, the safety and privacy interests of prospective jurors and the interests of the media and the public in ensuring that trials are conducted ethically and without bias.

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Public Records Exceptions Subcommittee
DRAFT APPROVED BY SUBCOMMITTEE:
AMEND TEACHER CONFIDENTIALITY PROVISIONS (Chart #69)

Sec. 1. **20-A MRSA §13004**, sub-§ 2-A, as repealed and replaced by PL 2009, c. 331, is amended to read:

2-A. Confidentiality. The provisions of this subsection govern confidentiality. For the purposes of this subsection, the term "certification" means certification, authorization or approval under this chapter and chapter 502.

A. Complaints and responses pursuant to section 13020 and any other information or materials that may result in an action to deny, revoke or suspend certification are confidential, except when submitted in court proceedings to revoke or suspend certification.

B. Except for information designated confidential under section 6101 or section 6103, information designated confidential under paragraph A may be released or used by the department as necessary to:

- (1) Complete its own investigations;
- (2) Provide information to a national association of state directors of teacher education and certification to which the State belongs;
- (3) Assist other public authorities to investigate the same teacher's certification in another jurisdiction;
- (4) Report or prevent criminal misconduct or assist law enforcement agencies in their investigations; or
- (5) Report child abuse or neglect under Title 22, section 4011-A.

C. The department may publish and release as public information statistical summaries of complaints and dispositions as long as the release of such information does not jeopardize the confidentiality of individually identifiable information.

D. Notwithstanding paragraph A, the following information concerning final written decisions relating to disciplinary action taken by the commissioner against persons holding certifications are public records:

- (1) Name of the person;
- (2) The type of action taken, consisting of denial, revocation, suspension, surrender or reinstatement;
- (3) The relevant dates of the action;

Public Records Exceptions Subcommittee
DRAFT APPROVED BY SUBCOMMITTEE:
AMEND TEACHER CONFIDENTIALITY PROVISIONS (Chart #69)

- (4) The type of certification and endorsements held, including relevant dates;
- (5) The schools where the person was or is employed; and
- (6) The dates of employment.

Please note that this draft does not include public release of the reasons for action by the commissioner

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FOR REVIEW 12/1

DRAFT

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CHRIS SPRUCE

STATE OF MAINE

RIGHT TO KNOW ADVISORY COMMITTEE

December 1, 2009

John Pelletier, Chair
Criminal Law Advisory Commission

Re: Criminal History Record Information Act

Dear Mr. Pelletier:

The Right to Know Advisory Committee was established to serve as a resource and advisor about Maine's Freedom of Access Laws. The Advisory Committee consists of 16 members from various constituencies, and we are working to provide training and other resources for public officials to assist them in complying with the laws governing proceedings and records.

One of the underlying premises of Maine's Freedom of Access laws is that records in the hands of public officials and agencies are public records to which the public has a right of access, unless the law provides that certain records should be treated differently. In addition to responsibilities that assist both the public and public officials and agencies, the Advisory Committee is charged with helping the Joint Standing Committee on Judiciary review and evaluate these statutory provisions that except records from the definition of "public record". Pursuant to Title 1, sections 431 - 433, the Judiciary Committee will review public records exceptions in Titles 10, 11, 12, 13, 13-B, 13-C, 14, 15, 16, 17, 17-A, 18-A, 18-B, 19-A, 20-A and 21-A during the 124th Legislature. (The list of exceptions to be reviewed is posted on our website: <http://www.maine.gov/legis/opla/righttoknow.htm>.) The Advisory Committee will be providing background information and advice to the Judiciary Committee with regard to these exceptions.

The Criminal History Record Information Act (CHRIA) prohibits the general dissemination of some criminal history information, and provides for the release of investigative and intelligence information in certain circumstances. The Advisory Committee identified

provisions as requiring review under Title 1, chapter 13, subchapter 1-A, and staff sought comments on the CHRIA from parties who deal with CHRIA on a regular basis. Using the relevant comments received, and the specific comments of Special Assistant Attorney General Charles Leadbetter, staff developed a preliminary redraft of the CHRIA. That preliminary draft has been circulated again, and we have received comments from several interested parties. We appreciate the thoughtfulness of the responses and the proposed revisions. Significant concerns have been raised about provisions that are not directly related to whether information should be shielded from public disclosure, which is our fundamental concern.

Because the basic CHRIA issues identified as needing revision are not within our jurisdiction; at least not initially, we believe that the concerns about definitions and the structure of the Act are better addressed by active participants in the criminal justice process. We think the Criminal Law Advisory Commission is the appropriate entity to carry out the review and revision of the CHRIA.

The Advisory Committee will therefore include as a recommendation in our 2010 report that the Criminal Law Advisory Commission review the Criminal History Record Information Act and suggest appropriate revisions. The Right to Know Advisory Committee is the proper entity to review the confidentiality provisions of any revision, and we would be happy to undertake that task for any redraft that CLAC is able to complete.

We hope that you agree that CLAC is the correct entity to undertake a comprehensive review of the Criminal History Record Information Act. Although we are providing a preliminary draft, we realize that your review of the Act may result in an entirely different approach. Our only request is that the Advisory Committee be given the opportunity to review and comment the public records exceptions contained in the redrafts before the work is completed.

We look forward to working with you. Please contact the Advisory Committee members or our staff if you have any questions.

Sincerely,

Senator Barry Hobbins
Chair

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HON. BARRY J. HOBBS, CHAIR
HON. DAWN HILL
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STATE OF MAINE

RIGHT TO KNOW ADVISORY COMMITTEE

November 30, 2009

Senator Lawrence S. Bliss
Representative Charles R. Priest
Joint Standing Committee on Judiciary
100 State House Station
Augusta, Maine 04333-0100

Dear Sen. Bliss and Rep. Priest,

In response to concerns raised by members of the Judiciary Committee about the breadth of language in current law used to protect information from individuals and businesses applying for financial or other technical assistance from government entities, I am writing to convey the comments of the Right to Know Advisory Committee. In accordance with the process developed by the Advisory Committee, our Public Records Exception Subcommittee initially held 3 subcommittee meetings to review and discuss this issue. The Public Records Exception Subcommittee then made its recommendation to the full Advisory Committee on December 1, 2009. After discussion of the issues and the subcommittee's recommendations, the Advisory Committee makes the following comments.

The Advisory Committee agrees that it is important to develop and maintain consistency among government entities in the treatment and protection of similar information. After a review of the provisions identified in current law, the Advisory Committee noted that more confidentiality protection is provided for information or records provided to government entities by individuals applying for financial assistance than to information or records provided by businesses. The Advisory Committee believes that it is appropriate to provide greater confidentiality protection for information from individuals. Accordingly, the Advisory Committee has developed two suggested models for statutory language---one relating to the treatment and protection of information submitted by individuals and one relating to the treatment and protection of information submitted by businesses. The attached drafts are intended as templates to provide consistency in the statutory language and to encourage similar treatment for certain records across state and local government and are based on existing confidentiality provisions included in current law.

Because many of the provisions identified in current law have been recently reviewed by the Advisory Committee and the Legislature, the Advisory Committee recommends that the draft model language be used as guidance for the Judiciary Committee in reviewing future proposed exceptions; at this time, the Advisory Committee does not recommend that all of the existing provisions be amended as needed to reflect the models. However, since one of the existing exceptions falls within our current review of

exceptions in Titles 10 through 21-A, the Advisory Committee will recommend that the exception in Title 10, section 975-A relating to the Finance Authority of Maine be amended to be consistent with the model language.

I hope you find the Advisory Committee's templates for model language helpful in your further consideration of proposed public records exceptions. Please contact me or our staff if you have any questions.

Sincerely,

Sen. Barry J. Hobbins
Chair, Right to Know Advisory Committee

Public Records Exceptions Subcommittee
PRELIMINARY DRAFT
Criminal History Record Information Act (CHRIA)
Changes highlighted

TITLE 16
COURT PROCEDURE -- EVIDENCE
CHAPTER 3
RECORDS AND OTHER DOCUMENTS
SUBCHAPTER 8
CRIMINAL HISTORY RECORD INFORMATION ACT

§611. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms shall have the following meanings.

1. **Administration of criminal justice.** "Administration of criminal justice" means detection, apprehension, detention, pre-trial release, post-trial release, prosecution, adjudication, correctional supervision or rehabilitation of accused persons or criminal offenders. It includes criminal identification activities and the collection, storage and dissemination of criminal history record information.

2. **Conviction Public criminal history data.** "~~Conviction~~ Public criminal history data" means criminal history record information other than ~~noneconviction~~ nonpublic data.

3. **Criminal history record information.** "Criminal history record information" means notations or other written evidence of an arrest, detention, complaint, indictment, information or other formal criminal charge relating to an identifiable person. It ~~shall include~~ includes the identification or description of the person charged and any disposition of the charge. The term does not include identification information such as fingerprints, palm prints or photographic records to the extent that the information does not indicate involvement of the individual in the criminal justice system. The term does not include records of traffic infractions and other civil violations, and does not include juvenile records.

4. **Criminal justice agency.** "Criminal justice agency" means a federal, state, district, county or local government, including tribal government, agency or any subunit thereof that performs the administration of criminal justice under a statute or executive order, and that allocates a substantial part of its annual budget to the administration of criminal justice. Courts and the Department of the Attorney General are considered criminal justice agencies. "Criminal justice agency" also includes any equivalent agency at any level of Canadian government.

5. **Disposition.** "Disposition" means the conclusion of criminal proceedings, and includes acquittal, acquittal by reason of mental disease or defect, (not guilty by reason of insanity??.) filing of case, dismissal of charge, dismissal of charge due to mental incompetency, continuance due to mental incompetence, guilty plea, nolo contendere plea, nolle prosequi, conviction, sentence, death of defendant, mistrial, new trial granted, release from correctional supervision, parole, pardon, amnesty or extradition. If the disposition is that the police have elected not to refer a matter to a prosecutor or that a prosecutor has elected not to commence criminal proceedings, it ~~shall include~~ includes the nature of the termination or conclusion of the



Public Records Exceptions Subcommittee
PRELIMINARY DRAFT
Criminal History Record Information Act (CHRIA)
Changes highlighted

proceedings. If the disposition is that the proceedings have been indefinitely postponed, it shall ~~include~~ includes the reason for that postponement.

6. Dissemination. "Dissemination" means the transmission of information by any means, whether including but not limited to, orally, in writing or by electronic means electronically, by or to anyone outside the agency ~~which~~ that maintains the information.

7. Executive order. "Executive order" means an order of the President of the United States or the chief executive of a state which has the force of law and which is published in a manner permitting regular public access thereto.

~~**8. Intelligence and investigative information.** "Intelligence and investigative information" means information collected by criminal justice agencies or at the direction of criminal justice agencies in an effort to anticipate, prevent or monitor possible criminal activity, including operation plans of the collecting agency or another agency, or information compiled in the course of investigation of known or suspected crimes, civil violations and prospective and pending civil actions. "Intelligence and investigative information" does not include information that is criminal history record information. (move to new subchapter)~~

9. ~~Nonconviction~~ Nonpublic data. "~~Nonconviction~~ nonpublic data" means criminal history record information of the following types:

- A. Arrest information without disposition, if an interval of one year has elapsed from the date of the arrest and no active prosecution of the charge is pending. To be an active prosecution the case must be still actively in process, with arraignment completed and the case docketed for court trial;
- B. Information disclosing that the police have elected not to refer a matter to a prosecutor;
- C. Information disclosing that a prosecutor has elected not to commence criminal proceedings;
- D. Information disclosing that criminal proceedings have been indefinitely postponed, e.g. a "filed" case, or a case which cannot be tried because the defendant is found to be mentally incompetent to stand trial; (Need more?)
- E. A dismissal;
- F. An acquittal, excepting an acquittal by reason of mental disease or defect (NGRI?); and
- G. Information disclosing that a person has been granted a full and free pardon or amnesty.

10. Person. "Person" means an individual, government agency or a corporation, partnership or unincorporated association.

Public Records Exceptions Subcommittee
PRELIMINARY DRAFT
Criminal History Record Information Act (CHRIA)
Changes highlighted

11. State. "State" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico and any territory or possession of the United States. (need more??)

12. Statute. "Statute" means an Act of Congress or of a state legislature or a provision of the Constitution of the United States or of a state. (need more??)

§612. Application

1. Criminal justice agencies. This subchapter ~~shall apply only~~ applies to criminal justice agencies.

2. Exceptions. This subchapter ~~shall not apply to criminal history record information~~ does not limit the dissemination of nonpublic data contained in:

- A. Posters, announcements or lists for identifying or apprehending fugitives or wanted persons;
- B. Original records of entry, such as police blotters, that are maintained by criminal justice agencies and that are compiled and organized chronologically;
- C. Records, retained at and by the District Court and Superior Court, of public judicial proceedings, including, but not limited to, docket entries and original court files;
- D. Court or administrative opinions not impounded or otherwise declared confidential;
- E. Records of public administrative or legislative proceedings;
- F. Records of traffic offenses retained at and by the Secretary of State; and
- G. ~~Petitions~~ Petitions for and warrants of pardons, commutations, reprieves and amnesties.

3. Permissible disclosure. Nothing in this subchapter ~~shall~~ may be construed to prohibit a criminal justice agency from:

- A. Disclosing to the public ~~criminal history record information~~ nonpublic data related to an offense for which a person is currently within the criminal justice system;
- B. Confirming prior ~~criminal history record information~~ nonpublic data to the public, in response to a specific inquiry that includes a specific name, date and charge or disposition, provided if that the information disclosed is based upon data ~~excluded by~~ described in subsection 2. The disclosing criminal justice agency shall disclose therewith any and all ~~criminal history record information~~ nonpublic data in its possession ~~which~~ that indicates the disposition of the arrest, detention or formal charges; and

Public Records Exceptions Subcommittee
PRELIMINARY DRAFT
Criminal History Record Information Act (CHRIA)
Changes highlighted

C. Disseminating ~~criminal history record information~~ nonpublic data for purposes of international travel such as issuing visas and granting of citizenship.

§612-A. Record of Information about persons detained

1. Requirement of record. Every criminal justice agency that maintains a facility for pretrial detention shall record the following information concerning each person delivered to it for pretrial detention for any period of time:

- A. Identity of the arrested person, including name, age, residence and occupation, if any;
- B. ~~Offenses~~ Crimes charged, including the time, place and nature of the ~~offense~~ crime;
- C. Time and place of arrest; and
- D. Circumstances of arrest, including force, resistance, pursuit and weapon, if any.

2. Time and method of recording. The ~~record~~ information required to be recorded by this section must be made immediately upon delivery of the person concerned to the agency for detention. It must be made upon serially numbered cards or sheets or on the pages of a permanently bound volume, made and maintained in chronological order, and must be part of the permanent records of the agency making it. The ~~record~~ information required by this section may be combined with the record required by Title 30-A, section 1505. (needs updating?)

3. ~~Records~~ Information public. The ~~record~~ information required to be recorded by this section ~~shall be~~ is a public record, except ~~for records of that information pertaining to the detention of juveniles~~ a juvenile, as defined in Title 15, section 3003, subsection 14, is not a public record unless the juvenile is bound over to be tried as an adult.

§613. Limitations on dissemination of ~~noneconviction~~ nonpublic data

Except as provided in section 612, subsections 2 and 3, ~~dissemination of noneconviction a criminal justice agency may disseminate nonpublic data by a criminal justice agency, whether directly or through any intermediary, shall be limited to only the following:~~

1. Criminal justice agencies. Other criminal justice agencies for the purpose of the administration of criminal justice and criminal justice agency employment;

2. Under express authorization. Any person for any purpose when expressly authorized by statute, executive order, court rule, court decision or court order. Express authorization ~~shall mean~~ means language in the statute, executive order, or court rule, decision or order which specifically speaks of ~~noneconviction~~ nonpublic data or specifically refers to one or more of the types of ~~noneconviction~~ nonpublic data;

Public Records Exceptions Subcommittee
PRELIMINARY DRAFT
Criminal History Record Information Act (CHRIA)
Changes highlighted

3. Under specific agreements. Any person with a specific agreement with a criminal justice agency to provide services required for the administration of criminal justice or to conduct investigations determining the employment suitability of prospective law enforcement officers. The agreement shall must specifically authorize access to data, limit the use of the data to purposes for which given, insure security and confidentiality of the data consistent with this subchapter and provide sanctions for any violations; and (note that "administration of criminal justice" does not include victim services)

4. Research activities. Any person for the express purpose of research, evaluation or statistical purposes or under an agreement with the criminal justice agency. The agreement shall must specifically authorize access to data, limit the use of data to research, evaluation or statistical purposes, insure the confidentiality and security of the data consistent with this subchapter and provide sanctions for any violations.

~~§614. Limitation on dissemination of intelligence and investigative information~~

~~1. Limitation on dissemination of intelligence and investigative information.~~ Reports or records that contain intelligence and investigative information and that are prepared by, prepared at the direction of or kept in the custody of a local, county or district criminal justice agency; the Bureau of State Police; the Department of the Attorney General; the Maine Drug Enforcement Agency; the Office of State Fire Marshal; the Department of Corrections; the criminal law enforcement units of the Department of Marine Resources or the Department of Inland Fisheries and Wildlife; or the Department of Conservation, Division of Forest Protection when the reports or records pertain to arson are confidential and may not be disseminated if there is a reasonable possibility that public release or inspection of the reports or records would:

- ~~A. Interfere with law enforcement proceedings;~~
- ~~B. Result in public dissemination of prejudicial information concerning an accused person or concerning the prosecution's evidence that will interfere with the ability of a court to impanel an impartial jury;~~
- ~~C. Constitute an unwarranted invasion of personal privacy;~~
- ~~D. Disclose the identity of a confidential source;~~
- ~~E. Disclose confidential information furnished only by the confidential source;~~
- ~~F. Disclose trade secrets or other confidential commercial or financial information designated as such by the owner or source of the information or by the Department of the Attorney General;~~
- ~~G. Disclose investigative techniques and procedures or security plans and procedures not generally known by the general public;~~

Public Records Exceptions Subcommittee
PRELIMINARY DRAFT
Criminal History Record Information Act (CHRIA)
Changes highlighted

H. ~~Endanger the life or physical safety of any individual, including law enforcement personnel;~~

I. ~~Disclose conduct or statements made or documents submitted by any person in the course of any mediation or arbitration conducted under the auspices of the Department of the Attorney General;~~

J. ~~Disclose information designated confidential by some other statute; or~~

K. ~~Identify the source of complaints made to the Department of the Attorney General involving violations of consumer or antitrust laws.~~

1-A. Limitation on release of identifying information; cruelty to animals. ~~The names of and other identifying information on persons providing information pertaining to criminal or civil cruelty to animals to the Department of Agriculture, Food and Rural Resources is confidential information and may not be disseminated.~~

2. Exception to this limitation.

3. Exceptions. ~~Nothing in this section precludes dissemination of intelligence and investigative information to:~~

A. ~~Another criminal justice agency;~~

B. ~~A state agency responsible for investigating abuse, neglect or exploitation of children under Title 22, chapter 1071 or incapacitated or dependent adults under Title 22, chapter 958-A for use in the investigation of suspected abuse, neglect or exploitation;~~

C. ~~An accused person or that person's agent or attorney if authorized by:~~

~~(1) The district attorney for the district in which that accused person is to be tried;~~

~~(2) A rule or ruling of a court of this State or of the United States; or~~

~~(3) The Attorney General; or~~

D. ~~A victim or victim's agent or attorney, subject to reasonable limitations to protect the interest described in subsection 1.~~
(move to new subchapter)

§615. Dissemination of ~~conviction~~ public criminal history data

Public criminal history data is a public record for the purposes of Title 1, chapter 13.
~~Conviction~~ Public criminal history data may be disseminated to any person for any purpose.



Public Records Exceptions Subcommittee
PRELIMINARY DRAFT
Criminal History Record Information Act (CHRIA)
Changes highlighted

§616. Inquiries required

A criminal justice agency shall query the State Bureau of Identification prior to dissemination of any criminal history record information ~~for noncriminal justice purposes~~ to assure ensure that the most up-to-date disposition data is being used.

§617. Dissemination to noncriminal justice agencies

Nonpublic data is not a public record. ~~Criminal history record information~~ Nonpublic data disseminated to a noncriminal justice agency under section 613 shall must be used solely for the purpose of which it was disseminated and shall may not be disseminated further.

§618. Confirming existence or nonexistence of ~~criminal history record information~~ nonpublic data

Except as provided in section 612, subsection 3, paragraph B, ~~no~~ a criminal justice agency shall may not confirm the existence or nonexistence of ~~criminal history record information~~ nonpublic data to any person or agency that would not be eligible to receive the information itself.

§619. Unlawful dissemination

1. **Offense.** A person is guilty of unlawful dissemination if he ~~he~~ the person knowingly disseminates ~~criminal history information~~ nonpublic data in violation of any of the provisions of this subchapter.

2. **Classification.** Unlawful dissemination is a Class E crime.

§620. Right to access and review (need to compare with Privacy Act)

1. **Inspection.** Any person or ~~his~~ the person's attorney may inspect the criminal history record information concerning ~~him~~ that person maintained by a criminal justice agency. A person's right to inspect or review criminal history record information shall does not include access to intelligence and investigative information or any other information ~~which~~ that is not criminal history record information. A criminal justice agency may prescribe reasonable hours and locations at which the right may be exercised and any additional restrictions, including satisfactory verification of identity by fingerprint comparison, as are reasonably necessary. These restrictions shall ~~be~~ are to ~~insure~~ ensure the security and confidentiality of the criminal history record information and to verify the identity of the person seeking to inspect that information. The agency shall supply the person or ~~his~~ the person's attorney with a copy of the criminal

Public Records Exceptions Subcommittee
PRELIMINARY DRAFT
Criminal History Record Information Act (CHRIA)
Changes highlighted

history record information pertaining to ~~him~~ the person on request and payment of a reasonable fee.

2. Review. A person or ~~his~~ the person's attorney may request amendment or correction of criminal justice record information concerning ~~him~~ the person by addressing, either in person or by mail, ~~his~~ the request to the criminal justice agency in which the information is maintained. The request ~~shall~~ must indicate the particular record involved, the nature of the correction sought and the justification for the amendment or correction.

On receipt of a request, the criminal justice agency shall take necessary steps to determine whether the questioned information is accurate and complete. If investigation reveals that the questioned information is inaccurate or incomplete, the agency shall immediately correct the error or deficiency and advise the requesting person that the correction or amendment has been made.

Not later than 15 days, excluding Saturdays, Sundays and legal public holidays, after the receipt of a request, the agency shall notify the requesting person in writing either that the agency has corrected the error or deficiency or that it refuses to make the requested amendment or correction. The notice of refusal shall include the reasons therefor, the procedure established by the agency for requesting a review by the head of the agency of that refusal and the name and business address of that official.

3. Administrative appeal. If there is a request for review, the head of the agency shall, not later than 30 days from the date of the request, excluding Saturdays, Sundays and legal public holidays, complete the review and either make the requested amendment or correction or refuse to do so. If the head of the agency refuses to make the requested amendment or correction, ~~he~~ the head of the agency shall permit the requesting person to file with the agency a concise statement setting forth the reasons for his disagreement with the refusal. ~~He~~ The head of the agency shall also notify the person of the provisions for judicial review of the reviewing official's determination under subsection 4.

Dissemination of the disputed criminal history record information by that agency with which the requesting person has filed a statement of disagreement, occurring after the filing of such statement, shall clearly reflect notice of the dispute. A copy of the statement ~~shall~~ must be included, along with, if the agency ~~deems~~ determines it appropriate, copies of a concise statement of the reasons of the agency for not making the amendment or correction requested.

4. Judicial review. If an administrative appeal brought pursuant to subsection 3 is denied by the head of the agency, or the requesting person believes the decision of the head of the agency to be otherwise unsatisfactory, the person may, within 30 days of the decision rendered by the head of the agency, seek relief in the Superior Court.

5. Notification. When a criminal justice agency has amended or corrected a person's criminal history record information in response to written request as provided in subsection 2 or a court order, the agency shall, within 30 days thereof, advise all prior recipients, who have received that information within the year prior to the amendment or correction, of the amendment

Public Records Exceptions Subcommittee
PRELIMINARY DRAFT
Criminal History Record Information Act (CHRIA)
Changes highlighted

or correction. It shall also notify the person of compliance with that requirement and the prior recipients notified.

6. Right of release. The provisions of this subchapter shall do not limit the right of a person to disseminate to any other person criminal history record information pertaining to himself that person.

§621. Information and records of the Attorney General (REPEALED)

§622. Application

The provisions of this subchapter shall apply to criminal history record information in existence before July 29, 1976, including that which has been previously expunged under any other provision of Maine law, as well as to criminal history record information in existence on July 29, 1976 and thereafter.

§623. Attorney General fees

~~The Attorney General shall analyze the impact of this conformity provision upon the Department of the Attorney General. The Department of the Attorney General shall submit a report to the joint standing committee of the Legislature having jurisdiction over judiciary matters to the First Regular Session of the 117th Legislature on this analysis and recommend a funding mechanism. The funding mechanism must include a fee for services to cover the costs associated with providing access and copying of records available to the public under this chapter.~~

New subchapter:

SUBCHAPTER 8-A
INTELLIGENCE AND INVESTIGATIVE INFORMATION

§625. Definitions

1. Criminal justice agency. (same as subchapter 8)

2. Intelligence and investigative information. "Intelligence and investigative information" means information collected by criminal justice agencies or at the direction of criminal justice agencies in an effort to anticipate, prevent or monitor possible criminal activity, including operation plans of the collecting agency or another agency, or information compiled in the course of investigation of known or suspected crimes, civil violations and prospective and pending civil actions. "Intelligence and investigative information" does not include information that is criminal history record information. (from §611, sub-§8)

Public Records Exceptions Subcommittee
PRELIMINARY DRAFT
Criminal History Record Information Act (CHRIA)
Changes highlighted

§626. Limitation on dissemination of intelligence and investigative information (currently §614)

1. Application. This section applies to reports or records that contain intelligence and investigative information and that are prepared by, prepared at the direction of or kept in the custody of any of the following:

- A. A local, county or district criminal justice agency;
- B. The Bureau of State Police;
- C. The Bureau of Capitol Police;**
- D. The Department of the Attorney General;
- E. The Maine Drug Enforcement Agency;
- F. The Office of State Fire Marshal;
- G. The Department of Corrections;
- H. The criminal law enforcement units of the Department of Marine Resources or the Department of Inland Fisheries and Wildlife; or
- I. The Department of Conservation, Division of Forest Protection when the reports or records pertain to arson.

2. Limitation on dissemination of intelligence and investigative information. Reports or records that contain intelligence and investigative information and that are prepared by, prepared at the direction of or kept in the custody of *any of the agencies or units listed in subsection 1* are confidential and may not be disseminated if there is a reasonable possibility that public release or inspection of the reports or records would:

- A. Interfere with law enforcement proceedings;
- B. Result in public dissemination of prejudicial information concerning an accused person or concerning the prosecution's evidence that will interfere with the ability of a court to impanel an impartial jury;
- C. Constitute an unwarranted invasion of personal privacy;
- D. Disclose the identity of a confidential source;
- E. Disclose confidential information furnished only by the confidential source;

Public Records Exceptions Subcommittee
PRELIMINARY DRAFT
Criminal History Record Information Act (CHRIA)
Changes highlighted

F. Disclose trade secrets or other confidential commercial or financial information designated as such by the owner or source of the information or by the Department of the Attorney General;

G. Disclose investigative techniques and procedures or security plans and procedures not generally known by the general public;

H. Endanger the life or physical safety of any individual, including law enforcement personnel;

I. Disclose conduct or statements made or documents submitted by any person in the course of any mediation or arbitration conducted under the auspices of the Department of the Attorney General;

J. Disclose information designated confidential by some other statute; or

K. Identify the source of complaints made to the Department of the Attorney General involving violations of consumer or antitrust laws.

3. Limitation on release of identifying information; cruelty to animals. The names of and other identifying information on persons providing information pertaining to criminal or civil cruelty to animals to the Department of Agriculture, Food and Rural Resources is confidential information and may not be disseminated.

4. Exceptions. Nothing in this section precludes dissemination of intelligence and investigative information to:

A. Another criminal justice agency;

B. A state agency responsible for investigating abuse, neglect or exploitation of children under Title 22, chapter 1071 or incapacitated or dependent adults under Title 22, chapter 958-A for use in the investigation of suspected abuse, neglect or exploitation;

C. An accused person or that person's agent or attorney if authorized by:

(1) The district attorney for the district in which that accused person is to be tried;

(2) A rule or ruling of a court of this State or of the United States; or

(3) The Attorney General;

D. A victim or victim's agent or attorney, subject to reasonable limitations to protect the interest described in subsection 1; or

Public Records Exceptions Subcommittee
PRELIMINARY DRAFT
Criminal History Record Information Act (CHRIA)
Changes highlighted

E. An advocate, as defined in section 53-B, subsection 1, paragraph A, with a specific agreement with a criminal justice agency and subject to reasonable limitations to protect the interests described in subsection 1. An agreement between an advocate and a criminal justice agency must, at a minimum, include provisions that:

(1) Permit the advocate to use reports or records that contain intelligence and investigative information for the purpose of planning for the safety of the victim named in the reports;

(2) Prohibit the advocate from further disseminating reports or records that contain intelligence and investigative information;

(3) Require the advocate to ensure that reports or records that contain intelligence and investigative information remain secure and confidential;

(4) Require the advocate to destroy reports or records that contain intelligence and investigative information within 30 days after receiving the report or record;

(5) Permit the criminal justice agency to perform reasonable and appropriate audits in order to ensure that records containing intelligence and investigative information that are obtained by and that are in the custody of the advocate are maintained in accordance with the requirements of this paragraph;

(6) Require the advocate to indemnify and hold harmless the criminal justice agency with respect to any litigation that may result from the provision of reports or records that contain intelligence and investigative information;

(7) Permit the criminal justice agency to immediately and unilaterally revoke an agreement made pursuant to this paragraph; and

(8) Provide sanctions for any violations of this paragraph.

The Commissioner of Public Safety may adopt a model policy to standardize the provisions contemplated in this paragraph.

5. Unlawful dissemination of reports or records that contain intelligence and investigative information. A person that intentionally disseminates a report or record that contains intelligence and investigative information in violation of this section commits a Class E crime.

Right to Know Advisory Committee
APPROVED BY PUBLIC RECORDS EXCEPTIONS SUBCOMMITTEE:
Standard statutory language relating to confidentiality of information
submitted to State agencies in applications for technical or financial assistance
from individuals

§ Freedom of access; confidentiality of records

The records of the [board, agency, authority, etc.] are subject to the freedom of access laws, Title 1, chapter 13, except as specifically provided in this section.

1. Confidential information. Records containing any information acquired by the [board, agency, authority, etc.] or a member, officer, employee or agent of the [board, agency, authority, etc.] from an applicant for or recipient of financial assistance provided pursuant to a program administered or established by the [board, agency, authority, etc.] is confidential for purposes of Title 1, section 402, subsection 3, paragraph A if the applicant or recipient is an individual.

2. Wrongful disclosure prohibited. A member, officer, employee, agent, other representative of the [board, agency, authority, etc.] or other person may not knowingly divulge or disclose records declared confidential by this section, except that the [board, agency, authority, etc.] may, in its discretion, make or authorize any disclosure of information of the following types or under the following circumstances:

A. Impersonal, statistical or general information;

B. If necessary in connection with processing any application for, obtaining or maintaining financial assistance for any person or in connection with acquiring, maintaining or disposing of property;

C. To a financial institution or credit reporting service;

D. Information necessary to comply with any federal or state law or rule or with any agreement pertaining to financial assistance;

E. Information to the extent the [board, agency, authority, etc.] deems the disclosure necessary to the sale or transfer of its bonds;

F. If necessary to assure collection of any obligation in which it has or may have an interest;

G. In any litigation or proceeding in which the [board, agency, authority, etc.] has appeared, introduction for the record of any information obtained from records declared confidential by this section; and

H. Pursuant to a subpoena, request for production of documents, warrant or other order by competent authority, provided that any such order appears to have first been served on the person to whom confidential information sought pertains or belongs and provided that any such order appears on its face or otherwise to have been issued or made upon lawful authority.

Right to Know Advisory Committee
APPROVED BY PUBLIC RECORDS EXCEPTIONS SUBCOMMITTEE:
Standard statutory language relating to confidentiality of information
submitted to State agencies in applications for technical or financial assistance
from businesses

§. Freedom of access; confidentiality of records

The records of the [board, agency, authority, etc.] are subject to the freedom of access laws, Title 1, chapter 13, except as specifically provided in this section.

1. Confidential records. The following records are designated as confidential for purposes of Title 1, section 402, subsection 3, paragraph A:

A. A record obtained or developed by the [board, agency, authority, etc.] that:

(1) A person, including the [board, agency, authority, etc.] to whom the record belongs or pertains has requested be designated confidential; and

(2) The board has determined contains information that gives the owner or a user an opportunity to obtain business or competitive advantage over another person who does not have access to the information, except through the records, or access to which by others would result in a business or competitive disadvantage, loss of business or other significant detriment to any person to whom the record belongs or pertains; and

B. A financial statement or tax return.

The [board, agency, authority, etc.] shall provide to a legislative committee, on written request signed by the chairs of that committee, any information or records, including information designated confidential under this subsection, specified in the written request. The information or records may be used only for the lawful purposes of the committee and in any action arising out of any investigation conducted by it and may not be released for any other purpose.

2. Exceptions. Notwithstanding subsection 1, the following are not confidential and are public records:

A. Any otherwise confidential information the confidentiality of which the [board, agency, authority, etc.] determines to have been satisfactorily and effectively waived;

B. Any otherwise confidential information that has already lawfully been made available to the public; and

C. Impersonal, statistical or general information.

3. Disclosure prohibited; further exceptions. A person may not knowingly divulge or disclose records designated confidential by this section, except that the [board, agency, authority, etc.], in its discretion and in conformity with legislative freedom of access criteria in Title 1, chapter 13, subchapter 1-A, may make or authorize any disclosure of information of the following types or under the following circumstances:

Right to Know Advisory Committee
APPROVED BY PUBLIC RECORDS EXCEPTIONS SUBCOMMITTEE:
Standard statutory language relating to confidentiality of information
submitted to State agencies in applications for technical or financial assistance
from businesses

- A. If necessary in connection with processing any application for, obtaining or maintaining financial assistance for any person;
- B. To a financing institution or credit reporting service;
- C. Information necessary to comply with any federal or state law or rule or with any agreement pertaining to financial assistance;
- D. If necessary to ensure collection of any obligation in which the [board, agency, authority, etc.] has or may have an interest;
- E. In any litigation or proceeding in which the [board, agency, authority, etc.] has appeared, introduction for the record of any information obtained from records designated confidential by this section; and
- F. Pursuant to a subpoena, request for production of documents, warrant or other order by competent authority, as long as any such order appears to have first been served on the person to whom the confidential information sought pertains or belongs and as long as any such order appears on its face or otherwise to have been issued or made upon lawful authority.

Provided to RTKAC @ 12/1 Mtg.
June Flynn, Secretary of State's Office

Central Voter Registration System (CVR) Data Access

Access to CVR Data

- 21-A MRSA §196, provides that information from the CVR is confidential and may be obtained and used only by election officials in the performance of their duties or under exceptions specified in law; namely, use by individuals to review their own records; use by political parties, candidate and issue campaigns and groups conducting “get-out-the-vote” activities; and use of non-personally identifying statistical data. Section 196 has a sunset date of 9/30/11, which was changed during the First Regular Session of the 124th Legislature from 9/30/09.
- Over time, and with several elections of CVR use, the Secretary of State’s Office has experienced some areas where the law has been tighter and more restrictive than need be and in those areas the Secretary of State has sought to open up and expand access.
- In other areas, there have been unintended loopholes that clearly undermine the intent of the Legislature as expressed in different sections of the same statute. In those areas, the Secretary of State has sought to tighten the law to close loopholes.

Why CVR data should continue to be protected

- Generally, public access to government data is used to enlighten citizens regarding the activities and performance of government. However, the information in the CVR is not government data. It is the individual, personal data of and about Maine’s voters. Making this data public does not shed light on the performance of government; it only sheds light on the activities of voters.
- CVR data doesn’t fit within the traditional considerations of the Right to Know law; rather than being data gathered by a government program, it is personal data on individuals that the State requires people to provide in order to access their right to vote.
- The harm in making the data fully public and generally available is the possible chilling effect on Democracy if voters decline to participate, and remove their names from the voter list rather than have their private data available to any person or data broker for any potential use.
- Conversely, the public interest **is** served by protecting this data, by ensuring that the data cannot be obtained and misused for a fraudulent purpose – e.g. voter fraud, identity theft and fraud. And, voters who provide this data will continue to be confident in registering to vote and participating in the electoral process without fear their personal data will be compromised.
- There are more than 120 active tables in the CVR database which collectively contain approximately 2,000 fields of dynamically updated information (voter information, municipal clerk passwords, audit data, metadata such as date fields, etc.). Therefore, it is simply too confusing and too cumbersome to draft a law that would cover access to all possible combinations of this data; and that could reasonably be administered by election officials and understood by the public. This is the reason that section 196 takes the approach of protecting CVR data generally, and defining specific uses.

New bill section/ statutory reference	Existing law	RTK impact	Comment
Sec. 1/ 21-A MRSA §22, sub-§3, ¶B, last sentence is being moved from §196, sub-§10.	§196, sub-§10	None. Same as current law.	The language on disclosure of a protected voter's address to a law enforcement officer or agency is being moved from existing section 196, subsection 10 (which relates only to data from the CVR) and is being placed in section 22, subsection 3, which relates to confidentiality of voter records and documents in paper format. In 2005, this wording was repealed from section 22, subsection 4, and added to section 196 in error.
Sec. 2/ 21-A MRSA §191 is being repealed.		N/A to RTK	This section is being repealed since it provides for implementation of a CVR , which is already completed.
Sec. 3/ 21-A MRSA §192 is being repealed.		N/A to RTK	This section is being repealed since it provides for an advisory committee to assist the Secretary of State with implementation of a CVR , which is already completed.
Sec. 4/ 21-A MRSA §193 is being repealed.		N/A to RTK	This section is being repealed since it provides that the Secretary of State can seek federal funds to develop and implement a CVR, which is already completed.
Sec. 5/ 21-A MRSA §194, is being amended.		N/A to RTK	This section is being amended to remove references to implementation of a CVR from the rules that the Secretary of State may adopt for administration of the CVR.
Sec. 6/ 21-A MRSA §195, is being amended.		N/A to RTK	This section is being amended to remove references to development of a CVR , as well as to remove language that ties the reporting requirement to the original report date for the 121 st Legislature.
Sec. 7/ 21-A MRSA §196 is being repealed.			Because of legislative drafting standards, the reorganization of section 196 could not be done as an amendment, instead it had to be done by repeal and replace. This is the repeal section. Included in the repeal is the existing sunset provision (of September 30, 2011) in the last paragraph of section 196.

New bill section/ statutory reference	Existing law	RTK impact	Comment
Sec. 8 Generally / 21-A MRSA §196-A is replacement language for §196.	§196	Minor. Mostly the same as current law.	This reorganizes existing section 196, so that issues of access (including restrictions on use and redistribution that were contained in section 196, subsection 7) to data from the CVR are all addressed in a single subsection (subsection 1), with each type of access described in its own paragraph, while issues of fees and responses to requests are kept in separate sections (subsections 2 and 3 respectively). However most of the language in section 196-A is in existing law.
Sec. 8 Specifically / 21-A MRSA §196-A, sub-§1.	§196, First ¶	Minor. Mostly the same as current law.	The language of this lead-in paragraph to new subsection 1 is being amended for clarification and does not contain significant changes. It retains the existing overarching provision for confidentiality of data from the CVR.
Sec. 8 Specifically / 21-A MRSA §196-A, sub-§1, ¶A.	§196, sub-§1	Expands access.	This reorganizes current section 196, subsection 1 into a new section 196-A, subsection 1, paragraph A. The new wording provides that an individual voter may obtain at no cost, any information in that voter's record in CVR, rather than specifying a list of information that may be obtained. The section also provides that the Secretary of State may design a report to facilitate providing this information to a voter.
Sec. 8 Specifically / 21-A MRSA §196-A, sub-§1, ¶B.	§196, sub-§2 (access to data); §196, sub-§7 (restrictions on use and redistribution of data)	Minor. Mostly the same as current law.	This reorganizes current section 196, subsection 2 into a new section 196-A, subsection 1, paragraph B. This section provides the same access to data as currently exists for political parties, and those engaged in campaigns or "get out the vote" efforts, except that access to absentee voter information is being removed from this section and placed in its own paragraph (D) of subsection 1. In addition, the restrictions on use and redistribution of data, which currently are found in section 196, subsection 7, are being added to this new section. The new language provides that the data may not be sold, redistributed or used for purposes that are not directly related to activities of a party, "get out the vote" efforts or activities related to a campaign.

124LR2450(01)-1 An Act To Improve Access to Data in the Central Voter Registration System

New bill section/ statutory reference	Existing law	RTK impact	Comment
Sec. 8 Specifically / 21-A MRSA §196-A, sub-§1, ¶C.	§312	Minor. Mostly the same as current law.	This new language regarding access to voter information for purposes of conducting the biennial municipal caucuses is being removed from section 312 of the existing law into section 196-A, subsection 1, paragraph C. The access to data is the same as in current law. Section 312 is being amended in section 9 of the bill to remove redundant language and to cross-reference section 196-A.
Sec. 8 Specifically / 21-A MRSA §196-A, sub-§1, ¶D.	§196, sub-§2, last sentence	None. Same as current law.	This language regarding access to absentee voter lists is being removed from section 196, subsection 2 (last sentence) and placed in its own paragraph (D) of the new 196-A, subsection 1. Under the new language, the electronic list of absentee voters will still be available at no cost, but will contain the voter record number of each voter in place of the name and address data that identifies individual voters. This section allows the Secretary of State to make available the statewide electronic list of absentee voters. The printed list will still be available at the municipal level for a per page cost, and still will include the voter name and address information.
Sec. 8 Specifically / 21-A MRSA §196-A, sub-§1, ¶E.	New language	Expands access.	This section expands access to CVR data to governmental or quasi-governmental entities. Such access is not explicitly permitted in the current section 196, although these entities could get the data from municipalities' legacy voter registration systems prior to implementation of the CVR. **Issue: the proposed language prohibits the use of CVR data for solicitation, but does not define solicitation.
Sec. 8 Specifically / 21-A MRSA §196-A, sub-§1, ¶F.	§196, sub-§3	None. Same as current law.	This language regarding access to CVR data that is statistical in nature or doesn't include information that may be used to identify individual voters is being moved from section 196, subsection 3 to the new section 196-A, subsection 1, ¶F.
Sec. 8 Specifically / 21-A MRSA §196-A, sub-§1, ¶G.	§196, sub-§8	None. Same as current law.	Existing access for law enforcement purposes is retained and clarified, but is being moved from section 196, subsection 8, to its own paragraph (G) in section 196-A, subsection 1.

124LR2450(01)-1 An Act To Improve Access to Data in the Central Voter Registration System

New bill section/ statutory reference	Existing law	RTK impact	Comment
Sec. 8 Specifically / 21-A MRSA §196-A, sub-§1, ¶H.	New language	Expands access.	This limited expansion of access to CVR data would allow a person to contact a municipality or the Secretary of State to verify the registration status (active, inactive, pending or cancelled), the enrollment status and the electoral districts for a voter identified by name and municipality.
Sec. 8 Specifically / 21-A MRSA §196-A, sub-§2.	§196, sub-§4 (fees generally); §196, sub-§5 (access to data by candidates)	Expands access.	This section retains the current fee structure, but provides that all entities that are entitled to purchase data from the CVR will be able to request and obtain up to 11 free updates (but not more than one per any 30 day period) during the 12 months subsequent to the purchase of the data. This removes the current difference that exists between the frequency of free updates available to candidates versus other persons authorized to purchase CVR data.
Sec. 8 Specifically / 21-A MRSA §196-A, sub-§3.	§196, sub-§6	None. Same as current law.	This section makes a minor, technical amendment to current language and moves it from existing section 196, subsection 6 and places it in new section 196-A, subsection 3.
Sec. 9/ 21-A MRSA §312 is being amended.	Amend §312 and move some of the language to §196-A, sub-§1, ¶C.	None. Same as current law.	This removes the information specific to creating and providing a caucus list and moves it to its own paragraph (C) in section 196-A, subsection 1, and creates a cross-reference between these two sections.
Sec. 10/ Unallocated language.	N/A	N/A	This section provides a transition period for the receipt of free updates of CVR data to entities that purchased CVR data prior to the effective date of this law.

COPY

An Act To Improve Access to Data in the Central Voter Registration System

PRESENTED BY: _____

(Representative TRINWARD)

TOWN: Waterville

124LR2450(01)-1

Submitted by the Secretary of State pursuant to Joint Rule 204.

PROPOSED SHORT TITLE:
IMPROVE ACCESS TO DATA IN CENT
VOTER REGISTRATION SYSTEM
(Subject to change)

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 21-A MRSA §22, sub-§3, ¶B,** as enacted by PL 2005, c. 568, §2, is
3 amended to read:

4 B. For a voter who submits to the registrar a signed statement that the voter has a
5 good reason to believe that the physical safety of the voter or a member of the voter's
6 immediate family residing with the voter would be jeopardized if the voter's
7 residence address were open to public inspection, that voter's residence address and
8 mailing address, if the mailing address is the same as or discloses the voter's
9 residence address, must be kept confidential and must be excluded from public
10 inspection. The remainder of the information in that voter's record that is designated
11 as public information in section ~~196~~ 196-A remains a public record and may be made
12 available to the public according to the use and distribution requirements provided in
13 that section. The voter's signed statement is also a public record. A voter's address
14 that is excluded from public inspection under this paragraph may be made available
15 free of charge to a law enforcement officer or law enforcement agency that makes a
16 written request to use the information for a bona fide law enforcement purpose or to a
17 person identified by a court order if directed by that order.

18 **Sec. 2. 21-A MRSA §191,** as amended by PL 2005, c. 364, §6; c. 453, §40; and c.
19 683, Pt. A, §§31 and 32, is repealed.

20 **Sec. 3. 21-A MRSA §192,** as amended by PL 2005, c. 12, Pt. SS, §21 and c. 453,
21 §41, is repealed.

22 **Sec. 4. 21-A MRSA §193,** as amended by PL 2005, c. 453, §42, is repealed.

23 **Sec. 5. 21-A MRSA §194,** as amended by PL 2005, c. 453, §43, is further
24 amended to read:

25 **§194. Rules**

26 The Secretary of State may adopt rules regarding ~~implementation and administration~~
27 of a central voter registration system to determine the pricing, accessibility and
28 availability of information contained in the database and the appropriate use and resale of
29 that information; ~~to establish a plan to implement the system in stages for all municipal~~
30 ~~jurisdictions; and~~ to identify additional system features or voter information to be
31 included in the system or provide for the confidentiality of certain personal information
32 or limitations on the use and distribution of that information; ~~and to establish a system to~~
33 ~~identify duplicate records, including establishment of a voter identification indicator.~~

34 Rules adopted pursuant to this section are major substantive rules as defined in Title
35 5, chapter 375, subchapter H-A 2-A.

36 **Sec. 6. 21-A MRSA §195,** as amended by PL 2007, c. 397, §1, is further amended
37 to read:

1 **§195. Report**

2 The Secretary of State shall report annually, by ~~March 1st~~ January 15th, to the joint
3 standing committee of the Legislature having jurisdiction over voter registration matters
4 on the administration of the central voter registration system ~~developed pursuant to this~~
5 ~~subchapter~~. The report may ~~include~~ address issues of public access to the information
6 from the central voter registration system, taking into consideration the compelling state
7 interests to prevent voter fraud and the potential disenfranchisement of voters and to
8 ensure that voters are not discouraged from participating in the voting process. The
9 report may include suggested legislation necessary to administer the central voter
10 registration system. The committee may report out legislation regarding the central voter
11 registration system to the Legislature ~~during the First Regular Session of the 121st~~
12 ~~Legislature and any subsequent Legislature.~~

13 **Sec. 7. 21-A MRSA §196**, as amended by PL 2009, c. 370, §§4 and 5, is repealed.

14 **Sec. 8. 21-A MRSA §196-A** is enacted to read:

15 **§196-A. Use and distribution of central voter registration system information**

16 **1. Access to data from the central voter registration system.** For the purposes of
17 Title 1, section 402, information contained electronically in the central voter registration
18 system and any information or reports generated by the system are confidential and may
19 be accessed only by municipal and state election officials for the purposes of election and
20 voter registration administration, and by others only as provided in this section.

21 A. An individual voter may obtain any information contained in that voter's record
22 within the central voter registration system either from the registrar in the voter's
23 municipality of residence or from the Secretary of State. The individual voter
24 information must be made available to that voter upon request and free of charge. The
25 Secretary of State may design a report to facilitate providing information to an
26 individual voter.

27 B. A political party, individual or organization engaged in so-called "get out the
28 vote" efforts or activities directly related to a campaign may purchase a list or report
29 of certain voter information from the central voter registration system by making a
30 request to the Secretary of State or to a registrar if the information requested concerns
31 voters in that municipality. The Secretary of State or the registrar shall make
32 available the following voter record information, subject to the fees set forth in
33 subsection 2: the voter's name, residence address, mailing address, date of birth,
34 enrollment status, electoral districts, voter status, date of registration, date of change
35 of the voter record if applicable, voter participation history, voter record number and
36 any special designations indicating uniformed service voters, overseas voters or
37 township voters. Any person obtaining, either directly or indirectly, information
38 from the central voter registration system under this paragraph may not sell, distribute
39 or use the data for any purpose that is not directly related to activities of a political
40 party, "get out the vote" efforts or activities directly related to a campaign. This
41 paragraph does not prohibit political parties, party committees, candidate committees,
42 political action committees or any other organizations that have purchased

1 information from the central voter registration system from providing access to such
2 information to their members for purposes directly related to party activities, "get out
3 the vote" efforts or a campaign. For purposes of this paragraph, "campaign" has the
4 same meaning as in section 1052, subsection 1.

5 C. The registrar shall make available, in electronic form and free of charge, upon the
6 request of any person authorized under section 312 to obtain a municipal caucus list,
7 the following voter record information for each voter in the municipality: the voter's
8 name, residence address, mailing address, enrollment status, electoral districts, voter
9 status, voter record number and any special designation indicating whether the voter
10 is a uniformed service voter, overseas voter or township voter. The Secretary of State
11 also shall make available the statewide caucus list, in electronic form and free of
12 charge, to the state committee of each political party.

13 D. A municipal clerk or registrar shall make available to any person upon request
14 and free of charge an electronic list of voters who requested or were furnished
15 absentee ballots for their municipality for a specified election. The Secretary of State
16 may make available free of charge the statewide absentee voter list in electronic
17 form. The electronic list must include the information provided in section 753-B,
18 subsection 6, paragraph A, except that the voter's record number must be provided
19 instead of the voter's name and residence address. In addition, a municipal clerk or
20 registrar shall make available upon request, subject to the fees set forth in subsection
21 2, paragraph A, the printed list, created and maintained pursuant to section 753-B, of
22 voters who requested or were furnished absentee ballots.

23 E. The Secretary of State or a registrar may make available, upon the request of any
24 other governmental or quasi-governmental entity, certain voter information for that
25 entity's authorized use only. The following information may be provided in
26 electronic form and free of charge: the voter's name, residence address, mailing
27 address, electoral districts, voter status, date of registration or date of change of the
28 voter record if applicable, voter record number and any special designations
29 indicating uniformed service voters, overseas voters or township voters. Data made
30 available under this paragraph may not be used for solicitation or for purposes other
31 than the governmental or quasi-governmental entity's authorized activities and may
32 not be redistributed.

33 F. The Secretary of State shall make available to any person upon request and free of
34 charge the following voter record information in electronic form: either the voter's
35 first name or last name, but not both names in the same report; year of birth;
36 enrollment status; electoral districts to include congressional district and county only;
37 voter status; date of registration or date of change of the voter record if applicable;
38 date of the last statewide election in which the voter voted; and any special
39 designations indicating uniformed service voters, overseas voters or township voters.
40 The Secretary of State or the registrar also may make available to any person upon
41 request and free of charge any report or statistical information that does not contain
42 the names, dates of birth, voter record numbers or addresses of individual voters.

43 G. The Secretary of State or a registrar shall make available free of charge any
44 information pertaining to individual voters, other than participants in the Address
45 Confidentiality Program established in Title 5, section 90-B, that is contained in the

1 central voter registration system to a law enforcement officer or law enforcement
2 agency that makes a written request to use the information for a bona fide law
3 enforcement purpose or to a person identified by a court order if directed by that
4 order. Information pertaining to individual voters who are Address Confidentiality
5 Program participants that is contained in the central voter registration system may be
6 made available for inspection to a law enforcement agency that is authorized by the
7 Secretary of State pursuant to Title 5, section 90-B to obtain Address Confidentiality
8 Program information. Data made available under this paragraph may not be used for
9 purposes other than law enforcement or as directed in the court order.

10 H. When responding to a request about a specific voter registered in a specific
11 municipality, the registrar of that municipality or the Secretary of State may use
12 information contained in the central voter registration system to provide the
13 registration status, enrollment status and electoral districts for that voter.

14 **2. Fees.** For the purpose of calculating fees pursuant to this section, a record
15 includes the information on one individual voter. Fees paid to the Secretary of State must
16 be deposited into a dedicated fund to offset the cost of providing the information and
17 maintaining the central voter registration system. A municipality may keep the fees paid
18 to the municipality. The fees for information provided pursuant to this section are as
19 follows:

20 A. The fee for information provided in printed form is \$1 for the first page and 25¢
21 per page for all additional pages, except that the fee for additional pages of mailing
22 labels is 75¢ per page; and

23 B. The fee for information provided in electronic form is based on the number of
24 records requested. The fee entitles the requestor to receive the initial electronic
25 report or file and, upon request, up to 11 updates free of charge during the subsequent
26 12-month period, except that no more than one free update may be requested during
27 any 30-day period. The fee schedule is as follows:

28 (1) For 900,001 or more voter records, \$2,000;

29 (2) For 600,001 to 900,000 voter records, \$1,500;

30 (3) For 400,001 to 600,000 voter records, \$1,000;

31 (4) For 250,001 to 400,000 voter records, \$750;

32 (5) For 150,001 to 250,000 voter records, \$500;

33 (6) For 100,001 to 150,000 voter records, \$250;

34 (7) For 75,001 to 100,000 voter records, \$200;

35 (8) For 50,001 to 75,000 voter records, \$165;

36 (9) For 35,001 to 50,000 voter records, \$125;

37 (10) For 25,001 to 35,000 voter records, \$75;

38 (11) For 15,001 to 25,000 voter records, \$50;

39 (12) For 7,501 to 15,000 voter records, \$30;

(13) For 1,001 to 7,500 voter records, \$20; or

(14) For 1 to 1,000 voter records, \$10.

3. Response to requests. Municipal clerks, registrars and the Secretary of State's office shall respond to all requests for information from the central voter registration system pursuant to this section within 5 business days of receipt of a written request and upon payment of any applicable fee. A municipal clerk or registrar may provide only information concerning voters registered within that municipal jurisdiction. The Secretary of State may design a form to be used for all requests for information or lists from the central voter registration system.

Sec. 9. 21-A MRSA §312, as amended by PL 2005, c. 453, §45, is further amended to read:

§312. Municipal caucus list

The chair or secretary of the municipal committee or the person or persons calling a biennial municipal caucus, including any resident voter pursuant to section 311, subsection 5, may request from the municipal registrar and receive at no charge a certified copy of a list of voters registered in that municipality a list of registered voters pursuant to section 196-A, subsection 1 for use by the municipal committee once each biennial election cycle beginning January 1st in an election year. Upon receipt of a request, the registrar has 5 business days to prepare and provide the municipal caucus list to the requester. The municipal caucus list may include only the following information for each voter: name, residence address, mailing address, enrollment status, electoral district, voter status as active or inactive, voter record number and any special designation indicating whether the voter is a uniformed service voter, overseas voter or township voter.

Sec. 10. Application. This Act does not apply to any requests for information from the central voter registration system submitted to a municipal registrar or to the Secretary of State prior to the effective date of this Act, except that any person or entity that has requested information from the central voter registration system in electronic form within 12 months prior to the effective date of this Act and that has paid the fees required under the Maine Revised Statutes, Title 21-A, former section 196, subsection 4 may obtain free monthly updates of the data for the remainder of the 12-month period, upon request.

SUMMARY

This bill repeals several provisions of law relating to the implementation of a central voter registration system. The bill removes the provision of law that would have repealed laws governing the use and distribution of central voter registration system information and clarifies the restrictions on access to data from the central voter registration system, enhances access to voter data by governmental or quasi-governmental entities for authorized purposes other than solicitations and improves access to absentee voter data and statistical data. The bill provides that individuals or entities that purchase voter data electronically are entitled to receive up to 11 free updates to the data in a one-year period,

1 but not more frequently than one update in any 30-day period. The bill also moves the
2 provisions of law regarding the biennial municipal caucus list into the section of law
3 governing access to data from the central voter registration system.

Right to Know Advisory Committee
REVISED PROPOSED DRAFT
Limitation on meetings using technology

Changes highlighted

Sec. 1. 1 MRSA §403-A is enacted to read:

§403-A. Public proceedings via communication means

1. Prohibition. Except as provided in subsections 2 and 3, a body subject to this subchapter may not conduct a public proceeding during which public or governmental business is discussed or transacted through telephonic, video, electronic or other communication means where the members of the body are not physically assembled.

2. Exception; quorum, notice, participation at remote location. A body may conduct a public proceeding in which public or governmental business is discussed or transacted through telephonic, video, electronic or other communication means only if:

A. A quorum of the body is physically assembled at one primary or central meeting location; and

B. Notice of the public proceeding has been given in accordance with section 406 subsection 6; and

C. The body has given prior authorization for the participation of members of the body through telephonic, video, electronic or other communication means in accordance with the requirements of this subsection; and

C D. If the remote locations from which additional members of the body participate through telephonic, video, electronic or other communication means are open to the public, all persons attending the meeting at the remote locations are afforded the same opportunity to address the body as persons attending the primary or central location. If a member of the body participates in a public proceeding from a remote location that is open to the public, any person attending the proceeding at the remote public location has the same opportunity to address the body as persons attending the proceeding at the primary or central meeting location; and

E. Any person attending the public proceeding has the same means of access as the body to the participation of a member from a remote location.

3. Exception; emergency. A [State?] governmental body may meet by telephonic, video, electronic or other communication means without a quorum physically assembled at one location when:

Right to Know Advisory Committee
REVISED PROPOSED DRAFT
Limitation on meetings using technology

~~Changes highlighted~~

A. An emergency has been declared in accordance with Title 22, section 802, subsection 2-A or Title 37-B, section 742;

B. The public proceeding is necessary to take action to address the emergency; and

C. The governmental body otherwise complies with the provisions of this section.

4. Annual meeting. If an authorized body conducts one or more public proceedings pursuant to this section, it shall also hold at least one public proceeding annually where members of the body in attendance are physically assembled at one location and where no members of the body participate by telephonic, video, electronic or other communication means from a remote location.

5. Notice. Notice of any public proceedings held pursuant to this section in which the remote locations will be open to the public must be provided at least 3 working days in advance of the date scheduled for the public proceeding. The notice must be in compliance with Title 1, section 406 and must include:

A. The date, time, place and purpose for the public proceeding;

B. The locations for the public proceeding;

C. A telephone number that may be used at remote locations to which the public will have access to notify the primary or central location of any interruption in the telephonic or video broadcast of the public proceeding to the remote locations.

5 6. Application. Nothing in this section may be construed to:

A. Require a body to conduct a public proceeding in which public or governmental business is discussed or transacted through telephonic, video, electronic or other communication means, whether or not the members are physically assembled in one location; or

B. Prohibit the use of interactive audio or video means to expand public participation.

Right to Know Advisory Committee
REVISED DRAFT –APPROVED 10/21 AS AMENDED
Record/Minutes of Public Proceedings
Changes highlighted

Sec. 1. 1 MRSA § 403 is repealed and the following enacted in its place:

§403. Meetings to be open to public; record of meetings

1. Open to public. Except as otherwise provided by statute or by section 405, all public proceedings shall be open to the public, any person shall be permitted to attend any public proceeding and any record or minutes of such proceedings that is required by law shall must be made promptly within a reasonable period of time after the proceeding and shall must be open to public inspection.

2. Record of public proceedings. Unless otherwise provided by law, a record of all public proceedings for which notice is required under section 406 must be made promptly within a reasonable period of time after the proceeding and be open to public inspection. At a minimum, the record must include:

- A. The date, time and place of the public proceeding;
- B. The members of the body recorded as either present or absent;
- C. The general substance of all matters proposed, discussed or decided; and
- D. A record of all motions and votes taken, by individual members if there is a roll call.

3. Audio or video recording. An audio, video or other electronic recording of a public proceeding satisfies the requirements of subsection 2.

Right to Know Advisory Committee
REVISED PROPOSED DRAFT
Protection of Social Security Numbers

Original draft	Comments
<p>Sec. 1. 1 MRSA §402, sub-§3, ¶N is amended to read:</p> <p>N. Social security numbers in the possession of the Department of Inland Fisheries and Wildlife <u>an agency or official. Subchapter 2-A applies to the protection of Social Security numbers in the possession of an agency or official; and</u></p>	
<p>Sec. 2. 1 MRSA §410 is amended to read:</p> <p>§410. Violations</p> <p>For every willful violation of this subchapter <u>or subchapter 2-A</u>, the state government agency or local government entity whose officer or employee committed the violation <u>shall be</u> <u>is</u> liable for a civil violation for which a forfeiture of not more than \$500 may be adjudged.</p>	
<p>Sec. 3. 1 MRSA c. 13, sub-c. 2-A is enacted to read:</p> <p><u>SUBCHAPTER 2-A</u> <u>PROTECTION OF SOCIAL</u> <u>SECURITY NUMBERS</u></p> <p><u>§461. Collection and disclosure of Social Security numbers</u></p>	

Right to Know Advisory Committee
REVISED PROPOSED DRAFT
Protection of Social Security Numbers

1. Collection of Social Security number; prohibition; collection practice. An agency or official of this State or any of its political subdivisions may not collect an individual's Social Security number unless specifically required by state or federal law or court order. When an agency or official is required to collect an individual's Social Security number, the agency or official shall collect and maintain the Social Security number in manner that facilitates preserving the confidentiality of the Social Security number when it is contained in or associated with an otherwise public record.

- What does "collect" mean?
 - Collect document, and it contains SSN
- Collection of SSN "specifically required" is too narrow
- Phrasing the statute in the negative requires amending other statutes to enable existing government operations to continue. Simpler to declare that all government agencies are authorized to collect in order to positively ID or locate information or to contact a person; the prohibit unauthorized release
- The legislation should allow SSNs to be collected for workers' compensation case tracking purposes and the like, but make it clear that disclosure of SSNs is strictly prohibited.
- Need lead-time
- Many times SSNs are collected because required by a federal agency, but not all of it is in law; federal regulations require the collection, and some collection is required by the federal agency on its own authority
- Cover independent authorities, too?
- Dept. of Audit's work cuts across all State agencies and State and Federal programs; would need court orders or change in statute
- Limit collection to federal or state law or rule or court order, or for criminal justice purposes
- Registries of Deeds are required to file documents that may or may not have SSNs - conflicts with statute that says cannot redact unless specifically

Right to Know Advisory Committee
REVISED PROPOSED DRAFT
Protection of Social Security Numbers

	<p>requested?</p> <ul style="list-style-type: none">• Change to “authorized” to collect rather than “required” to collect• Allow collection “for the purpose of carrying out the agency’s or official’s licensing, examination or investigative responsibilities• Include: unless the SSN is required in connection with an application for or administration of a loan or other financial assistance through the agency or official, or is an application to open or the administration of an account under T. 20, c. 417-E
<p><u>2. Nondisclosure of Social Security number.</u> Except as provided in subsection 3, an agency or official:</p>	
<p><u>A. May not disclose an individual’s Social Security number if that Social Security number was collected on or after January 1, 2011; and</u></p>	<ul style="list-style-type: none">• In conflict with Registries of Deeds statute that does not allow altering a document?• Is this giving the agency the option?
<p><u>B. May redact or otherwise refuse to disclose an individual’s Social Security number that was collected prior to January 1, 2011.</u></p>	<ul style="list-style-type: none">• In conflict with Registries of Deeds statute that does not allow altering a document?• Is the expectation that agencies go back into files and redact SSNs?
<p><u>3. Permitted disclosure of Social Security numbers.</u> An agency or official may disclose the Social Security number of an individual only in the following circumstances.</p>	

Right to Know Advisory Committee
REVISED PROPOSED DRAFT
Protection of Social Security Numbers

<p><u>A. An agency or official may disclose the Social Security number of an individual when the disclosure is expressly required by state or federal law or a court order.</u></p>	<ul style="list-style-type: none"> • In conflict with Registries of Deeds statute that does not allow altering a document?
<p><u>B. A state or local law enforcement agency may, for purposes of furthering an investigation, disclose the Social Security number of an individual to any individual, state, local or federal agency or other legal entity.</u></p>	<ul style="list-style-type: none"> • Too narrow - many agencies need information, validation, conduct investigations that are not law enforcement agencies (change to "regulatory agency?") • Allows disclosure to anyone? • Any way to make this a pilot project to see if it works? • Dept. of Audit must disclose fraud to federal authorities (USGAO standards) • Change "law enforcement agency" to "criminal justice agency"
<p><u>C. An agency or official may disclose the Social Security number of an individual when the individual expressly consents in writing to the disclosure.</u></p>	<ul style="list-style-type: none"> • Delete "expressly" • Expand to consent to disclosure of non-public personal information • Add new ¶: D. A criminal justice agency may disseminate the SSN of an individual to another criminal justice agency for criminal justice purposes • Add new ¶: D. An agency or official may disclose the SSN of an individual for purposes of carrying out the agency's or official's licensing, examination or investigative

Right to Know Advisory Committee
REVISED PROPOSED DRAFT
Protection of Social Security Numbers

responsibilities

- Add new ¶: D. An agency or official may disclose the SSN of an individual to a credit reporting agency when permitted to obtain a credit report from, or to report or receive other information to or from a credit reporting agency under the Fair Credit Reporting Act or other applicable law
- Add a new ¶: E. An agency or official may disclose the SSN of an individual in connection with the agency's or officials activities related to the application, processing, servicing, reporting or collecting of a loan under the Federal Family Education Loan Program
- Add a new ¶: F. An agency or official may disclose the SSN of an individual to the Maine Bureau of Revenue Services in connection with collecting an obligation to such agency, and entitle to have obligation offset from any tax refund
- Add a new ¶: G. An agency or official may disclose the SSN of an individual to the Maine Bureau of Revenue Services in connection with administration of certain benefits under T. 20-A, c. 417-E to verify eligibility
- Add a new ¶: H. An agency or official may disclose the SSN of an individual collected in connection with the opening or administration of an account under T. 20-A, c. 417-E
- Add a new ¶: I. An agency or official may disclose the SSN of an individual in connection with any audits or other

Right to Know Advisory Committee
REVISED PROPOSED DRAFT
Protection of Social Security Numbers

procedures conducted for the agency related to the agency's financial statements or records of any programs administered by the agency or any benefits awarded by the agency

4. Compliance. An agency or official complies with this section if the agency or official either removes or completely and permanently obscures a Social Security number on a public record before disclosing the public record.

- Applies only after 1/1/11?

5. Notice. If an agency or official discloses a Social Security number in violation of this section, the agency or official shall provide notice to the person whose Social Security number was disclosed as in Title 10, chapter 210-B.

- Applies only after 1/1/11?
- Do the penalties of Title 10, c. 210-B apply, as well?

Note:

- Federal criminal justice agencies routinely provide SSNs to the State Bureau of Identification when providing criminal history record information regarding individual
- It is standard practice for the Maine Secretary of State's Office, Bureau of Motor Vehicles to provide SSNs to law enforcement agencies when such agencies request a driving history record report regarding any given individual

The Vermont Statutes Online

Title 9: Commerce and Trade

Chapter 62: PROTECTION OF PERSONAL INFORMATION

9 V.S.A. § 2440. Social security number protection

§ 2440. Social security number protection

(a) This section shall be known as the Social Security Number Protection Act.

(b) Except as provided in subsection (c) of this section, a business may not do any of the following:

(1) Intentionally communicate or otherwise make available to the general public an individual's Social Security number.

(2) Intentionally print or imbed an individual's Social Security number on any card required for the individual to access products or services provided by the person or entity.

(3) Require an individual to transmit his or her Social Security number over the internet unless the connection is secure or the Social Security number is encrypted.

(4) Require an individual to use his or her Social Security number to access an internet website, unless a password or unique personal identification number or other authentication device is also required to access the internet website.

(5) Print an individual's Social Security number on any materials that are mailed to the individual, unless state or federal law requires the Social Security number to be on the document to be mailed.

(6) Sell, lease, lend, trade, rent, or otherwise intentionally disclose an individual's Social Security number to a third party without written consent to the disclosure from the individual, when the party making the disclosure knows or in the exercise of reasonable diligence would have reason to believe that the third party lacks a legitimate purpose for obtaining the individual's Social Security number.

(c) Subsection (b) of this section shall not apply:

(1) When a Social Security number is included in an application or in documents related to an enrollment process, or to establish, amend, or terminate an account, contract, or policy; or to confirm the accuracy of the Social Security number for the purpose of obtaining a credit report pursuant to 15 U.S.C. § 1681(b)(2). A Social Security number that is permitted to be mailed under this section may not be printed, in whole or in part, on a postcard or other mailer not requiring an envelope, or visible on an envelope without the envelope having been opened.

(2) To the collection, use, or release of a Social Security number reasonably necessary for administrative purposes or internal verification.

(3) To the opening of an account or the provision of or payment for a product or service authorized by an individual.

(4) To the collection, use, or release of a Social Security number to investigate or prevent fraud; conduct background checks; conduct social or scientific research; collect a debt; obtain a credit report from or furnish data to a consumer reporting agency pursuant to the fair credit reporting act, 15 U.S.C. § 1681, et seq.; undertake a permissible purpose enumerated under Gramm Leach Bliley, 12 C.F.R. § 216.13-15; or locate an individual who is missing, is a lost relative, or is due a benefit, such as a pension, insurance, or unclaimed property benefit.

(5) To a business acting pursuant to a court order, warrant, subpoena, or when otherwise required by law, or in response to a facially valid discovery request pursuant to rules applicable to a court or administrative body that has jurisdiction over the disclosing entity.

(6) To a business providing the Social Security number to a federal, state, or local government entity, including a law enforcement agency, the department of public safety, and a court, or their agents or assigns.

(7) To a Social Security number that has been redacted.

(8)(A) To a business that has used, prior to January 1, 2007, an individual's Social Security number in a manner inconsistent with subsection (b) of this section, which may continue using that individual's Social Security number in that manner on or after January 1, 2007, if all of the following conditions are met:

(i) The use of the Social Security number is continuous. If the use is stopped for any reason, subsection (b) of this section shall apply.

(ii) The individual is provided an annual disclosure that informs the individual that he or she has the right to stop the use of his or her Social Security number in a manner prohibited by subsection (b) of this section.

(iii) A written request by an individual to stop the use of his or her Social Security number in a manner prohibited by subsection (b) of this section is implemented within 30 days of the receipt of the request. There shall not be a fee or charge for implementing the request.

(iv) The person or entity does not deny services to an individual because the individual makes a written request pursuant to this subsection.

(B) Nothing in this subdivision (8) is intended to apply to the collection, use or dissemination of Social Security numbers collected prior to January 1, 2007 and exempted from the provisions of subsection (b) of this section pursuant to subdivisions (1) through (7) or (9) and (10) of this subsection.

(9) To information obtained from a recorded document in the official records of the town clerk or municipality.

(10) To information obtained from a document filed in the official records of the courts.

(d) Except as provided in subsection (e) of this section, the state and any state agency, political subdivision of the state, and agent or employee of the state, a state agency, or a political subdivision of the state, may not do any of the following:



(1) Collect a Social Security number from an individual unless authorized or required by law, state or federal regulation, or grant agreement to do so or unless the collection of the Social Security number or records containing the Social Security number is related to the performance of that agency's duties and responsibilities as prescribed by law.

(2) Fail, when collecting a Social Security number from an individual in a hard copy format, to segregate that number on a separate page from the rest of the record, or as otherwise appropriate, in order that the Social Security number can be more easily redacted pursuant to a valid public records request.

(3) Fail, when collecting a Social Security number from an individual, to provide, at the time of or prior to the actual collection of the Social Security number by that agency, that individual, upon request, with a statement of the purpose or purposes for which the Social Security number is being collected and used.

(4) Use the Social Security number for any purpose other than the purpose set forth in the statement required under subdivision (3) of this subsection.

(5) Intentionally communicate or otherwise make available to the general public a person's Social Security number.

(6) Intentionally print or imbed an individual's Social Security number on any card required for the individual to access government services.

(7) Require an individual to transmit the individual's Social Security number over the internet, unless the connection is secure or the Social Security number is encrypted.

(8) Require an individual to use the individual's Social Security number to access an internet website, unless a password or unique personal identification number or other authentication device is also required to access the internet website.

(9) Print an individual's Social Security number on any materials that are mailed to the individual, unless a state or federal law, regulation, or grant agreement requires that the Social Security number be on the document to be mailed. A Social Security number that is permitted to be mailed under this subdivision may not be printed, in whole or in part, on a postcard or other mailer not requiring an envelope, or visible on an envelope, without the envelope having been opened.

(e) Subsection (d) of this section does not apply to:

(1) Social Security numbers disclosed to another governmental entity or its agents, employees, contractors, grantees, or grantors of a governmental entity if disclosure is necessary for the receiving entity to perform its duties and responsibilities. The receiving governmental entity and its agents, employees, and contractors shall maintain the confidential and exempt status of such numbers. As used in this subsection, "necessary" means reasonably needed to promote the efficient, accurate, or economical conduct of an entity's duties and responsibilities.

(2) Social Security numbers disclosed pursuant to a court order, warrant, or subpoena, or in response to a facially valid discovery request pursuant to rules applicable to a court or administrative body that has jurisdiction over the disclosing entity.

(3) Social Security numbers disclosed for public health purposes pursuant to and in compliance with requirements of the department of health under Title 18.

(4) The collection, use, or release of a Social Security number reasonably necessary for administrative purposes or internal verification. Internal verification includes the sharing of information for internal verification between and among governmental entities and their agents, employees, contractors, grantees, and grantors.

(5) Social Security numbers that have been redacted.

(6)(A) A state agency or state political subdivision that has used, prior to January 1, 2007, an individual's Social Security number in a manner inconsistent with subsection (d) of this section, which may continue using that individual's Social Security number in that manner on or after January 1, 2007, if all of the following conditions are met:

(i) The use of the Social Security number is continuous. If the use is stopped for any reason, subsection (d) of this section shall apply.

(ii) The individual is provided an annual disclosure that informs the individual that he or she has the right to stop the use of his or her Social Security number in a manner prohibited by subsection (d) of this section.

(iii) A written request by an individual to stop the use of his or her Social Security number in a manner prohibited by subsection (d) of this section is implemented within 30 days of the receipt of the request. There shall not be a fee or charge for implementing the request.

(iv) The state agency or state political subdivision does not deny services to an individual because the individual makes a written request pursuant to this subdivision.

(B) Nothing in this subdivision (e)(6) is intended to apply to the collection, use or dissemination of Social Security numbers collected prior to January 1, 2007 and exempted from the provisions of subsection (d) of this section pursuant to subdivisions (1) through (5) or (7) through (11) of this subsection.

(7) Certified copies of vital records issued by the health department and other authorized officials pursuant to part 6 of Title 18.

(8) A recorded document in the official records of the town clerk or municipality.

(9) A document filed in the official records of the courts.

(10) The collection, use, or dissemination of Social Security numbers by law enforcement agencies and the department of public safety in the execution of their duties and responsibilities.

(11) The collection, use, or release of a Social Security number to investigate or prevent fraud; conduct background checks; conduct social or scientific research; collect a debt; obtain a credit report from or furnish data to a consumer reporting agency pursuant to the fair credit reporting act, 15 U.S.C. § 1681 et seq.; undertake a permissible purpose enumerated under Gramm Leach Bliley, 12 C.F.R. § 216.13-15; or locate an individual who is missing, is a lost relative, or is due a benefit, such as a pension, insurance, or unclaimed property benefit.

(f) Any person has the right to request that a town clerk or clerk of court remove from an image or copy of an official record placed on a town's or court's internet website available to the general public or an internet website available to the general public to display public records by the town clerk or clerk of court, the person's Social Security number, employer taxpayer identification number, driver's license number, state identification number, passport number, checking account

number, savings account number, credit card or debit card number, or personal identification number (PIN) code or passwords contained in that official record. A town clerk or clerk of court is authorized to redact the personal information identified in a request submitted under this section. The request must be made in writing, legibly signed by the requester, and delivered by mail, facsimile, or electronic transmission, or delivered in person to the town clerk or clerk of court. The request must specify the personal information to be redacted, information that identifies the document that contains the personal information and unique information that identifies the location within the document that contains the Social Security number, employer taxpayer identification number, driver's license number, state identification number, passport number, checking account number, savings account number, credit card number, or debit card number, or personal identification number (PIN) code or passwords to be redacted. The request for redaction shall be considered a public record with access restricted to the town clerk, the clerk of court, their staff, or upon order of the court. The town clerk or clerk of court shall have no duty to inquire beyond the written request to verify the identity of a person requesting redaction and shall have no duty to remove redaction for any reason upon subsequent request by an individual or by order of the court, if impossible to do so. No fee will be charged for the redaction pursuant to such request. Any person who requests a redaction without proper authority to do so shall be guilty of an infraction, punishable by a fine not to exceed \$500.00 for each violation.

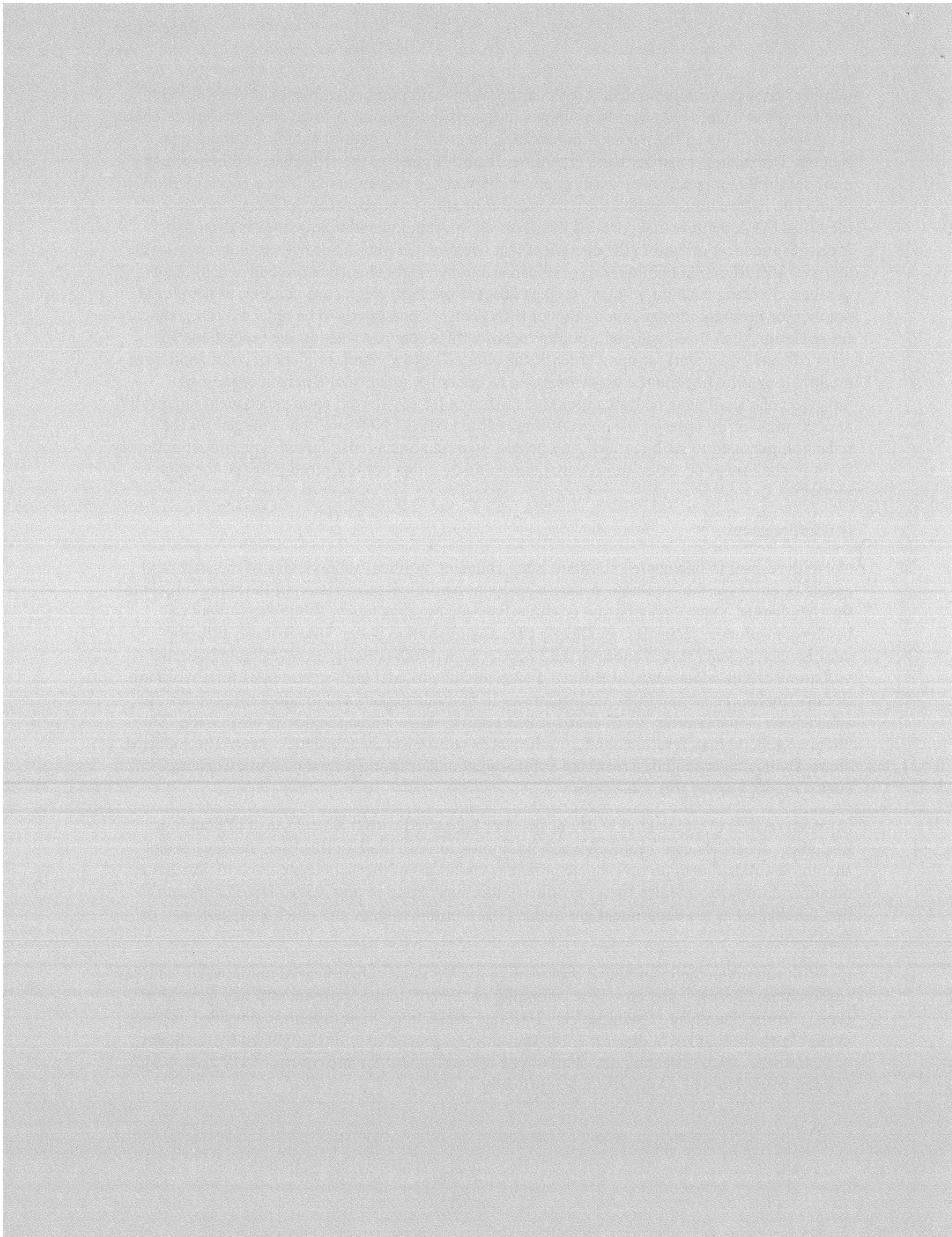
(g) Enforcement.

(1) With respect to businesses, the state, state agencies, political subdivisions of the state, and agents or employees of the state, a state agency, or a political subdivision of the state, subject to this subchapter, other than a person or entity licensed or registered with the department of banking, insurance, securities, and health care administration under Title 8 or this title, the attorney general and state's attorney shall have sole and full authority to investigate potential violations of this subchapter, to enforce, prosecute, obtain, and impose remedies for a violation of this subchapter, or any rules made pursuant to this subchapter, and to adopt rules under this subchapter, as the attorney general and state's attorney have under chapter 63 of this title. The attorney general may refer the matter to the state's attorney in an appropriate case. The superior courts shall have jurisdiction over any enforcement matter brought by the attorney general or a state's attorney under this subsection.

(2) With respect to a person or entity licensed or registered with the department of banking, insurance, securities, and health care administration under Title 8 or this title, the department shall have full authority to investigate potential violations of this subchapter, and to prosecute, obtain and impose remedies for a violation of this subchapter or any rules adopted pursuant to this subchapter as the department has under Title 8 or this title, or any other applicable law or regulation.

(3) With respect to the information provided by the Vermont department of public safety and law enforcement agencies, and any agent or employee thereof, to the Vermont attorney general or state's attorney pursuant to subdivision (1) of this subsection, the information provided or made available by the agency or department to the attorney general may be designated by the agency or department as confidential, and shall not be released under the provisions of 1 V.S.A. § 317. (Added 2005, No. 162 (Adj. Sess.), § 1, eff. July 1, 2007.)





[illegible]

124th Second Regular Session Legislation
Possible FOIA/confidentiality bills highlighted

LR	LD	LawType	Authority	Broad Subject	Title
2233	0	PUBLIC	DPT	BRED	An Act To Correct Errors in the Laws Relating to Unlicensed Practice and Other Provisions of the Professional and Occupational Licensing Laws
2398	0	PUBLIC	DPT	BRED	An Act To Streamline the Maine Tourism Commission and the Maine State Film Commission
2156	0	PUBLIC	LCA	BRED	An Act To Protect Maine Citizens' Credit
2341	0	PUBLIC	LCA	BRED	An Act To Clarify the Educational Requirements for Eligibility for Examination for Licensure as a Certified Public Accountant
2457	0	PUBLIC	LCA	BRED	An Act To Establish an Office of Administrative Law Judges for Licensing Boards
2054	0	PUBLIC	LCA	BRED	An Act To Clarify the Enforcement Role of the Mixed Martial Arts Authority of Maine
2406	0	PUBLIC	DPT	BRED	An Act To Amend the Laws Governing the Health Professions Loan Program
2092	0	PUBLIC	LCA	BRED	An Act To Protect Minors from Unscrupulous Marketing Practices
2288	0	PUBLIC	LCA	BRED	An Act Regarding the Law Governing Recreational Vehicle Manufacturers, Distributors and Dealers
91				BRED	An Act To Fund the Maine Downtown Center
272				BRED	An Act To License Home Building and Improvement Contractors
1320				BRED	An Act To Ensure the Availability of Alcohol-free Motor Fuels
2355	0	PUBLIC	LCA	CJPS	An Act To Streamline the Renewal Process for a Permit To Carry a Firearm
2417	0	PUBLIC	LCA	CJPS	An Act To Amend the Law Pertaining to Smoke Detectors and Carbon Monoxide Detectors
2453	0	PUBLIC	IDP	CJPS	An Act To Expand the Use of Ignition Interlock Devices
2117	0	RESOLVE	LCA	CJPS	Resolve, To Implement the Recommendations of the Juvenile Justice Task Force
2197	0	PUBLIC	LCA	CJPS	An Act Concerning Statewide Communications Interoperability
2289	0	RESOLVE	LCA	CJPS	Resolve, To Reduce the Use and Abuse of Solitary Confinement
2259	0	PUBLIC	DPT	CJPS	An Act To Improve the Ability of the Commissioner of Corrections To Respond in an Emergency
2258	0	PUBLIC	DPT	CJPS	An Act To Improve the Delivery of Community Corrections Services
2257	0	PUBLIC	DPT	CJPS	An Act To Clarify the Status of Prisoners
2229	0	PUBLIC	DPT	CJPS	An Act To Update Laws Regulating the Maine Emergency Management Agency
2211	0	PUBLIC	LCA	CJPS	An Act Regarding Accidental Death Benefits for Beneficiaries of Deceased Firefighters
2256	0	PUBLIC	DPT	CJPS	An Act Regarding the Transfer of an Offender through the Interstate Compact for Adult Offender Supervision
2200	0	PUBLIC	LCA	CJPS	An Act To Increase the Penalties for Writing Bad Checks
2268	0	PUBLIC	DPT	CJPS	An Act To Update and Clarify Polygraph Examiner and Private Investigator Licensing Laws Administered by the Department of Public Safety
2470	0	PUBLIC	LCA	CJPS	An Act To Change Operating after Suspension to a Civil Violation
568				CJPS	An Act To Amend the Sex Offender Registration Laws
791				CJPS	An Act To Prohibit Furnishing a Place for Minors To Use Illegal Drugs
1139				CJPS	An Act To Require Internet Service Providers To Retain Records

124th Second Regular Session Legislation
Possible FOA/confidentiality bills highlighted

LR	LD	LawType	Authority	Broad Subject	Title
2351	0	RESOLVE	LCA	EDU	Resolve, To Develop a Model Academic Year Calendar
2404	0	PUBLIC	DPT	EDU	An Act To Align Education Laws with Certain Federal Laws
2403	0	PUBLIC	DPT	EDU	An Act To Align the Duties of School Boards Concerning Student Safety with the Requirements of the Federal Gun-Free Schools Act and To Prohibit the Discharge of Firearms within 500 Feet of Public and Private School Properties
2047	0	PUBLIC	LCA	EDU	An Act To Clarify the State's Initiative Involving the Federal Post-9/11 Veterans Educational Assistance Act of 2008
2095	0	P & S	LCA	EDU	An Act To Authorize Maine Media College To Confer the Degree of Master of Fine Arts
2251	0	PUBLIC	LCA	EDU	An Act To Increase Maine's High School Graduation Rates
2405	0	PUBLIC	DPT	EDU	An Act To Update the Laws Concerning the Maine School of Science and Mathematics
2311	0	PUBLIC	LCA	EDU	An Act To Allow Minor Capital School Improvement Projects To Be Permitted Costs under Essential Programs and Services
2400	0	PUBLIC	DPT	EDU	An Act To Fully Implement School Administrative Unit Reorganization
2443	0	PUBLIC	LCA	EDU	An Act To Require the University of Maine System To Divest and Monetize Certain Telecommunications Service Property and Information Service Property
2463	0	PUBLIC	LCA	EDU	An Act To Implement Recommendations Contained in the Audit of the Maine State Library, Maine Arts Commission, Maine State Museum Commission and Maine Historic Preservation Commission
	160			EDU	An Act To Require the Department of Education To Provide an Accounting of School Subsidy Based on Individual Members in a Regional School Unit or Alternative Organizational Structure
	352			EDU	An Act To Encourage Veterinary Practice in Maine
	470			EDU	An Act To Sustain Nursing Education in Lincoln County
	551			EDU	An Act To Improve the Essential Programs and Services Funding Formula
	570			EDU	An Act To Improve the Laws Governing the Consolidation of School Administrative Units
2379	0	PUBLIC	IDP	HHS	An Act To Make Maine's Laws Consistent with the Federal Family Smoking Prevention and Tobacco Control Act
2480	0	RESOLVE	LCA	HHS	Resolve, To Repeal the Fee Increase for Copies of Vital Records
2436	0	PUBLIC	LCA	HHS	An Act To Ensure Fairness in Penalties for Administrative Errors in the Long-term Care Assessment Process
2038	0	RESOLVE	LCA	HHS	Resolve, To Allow for the Proper Disposal of Medical Supplies
2198	0	RESOLVE	LCA	HHS	Resolve, To Define High-risk Populations for the Purposes of Hospital Surveillance for Methicillin-resistant Staphylococcus Aureus and To Implement Public Law 2009, chapter 346
2301	0	PUBLIC	LCA	HHS	An Act To Prevent the Spread of Eastern Equine Encephalitis

124th Second Regular Session Legislation
Possible FOIA/confidentiality bills highlighted

LR	LD	LawType	Authority	Broad Subject	Title
2276	0	PUBLIC	LCA	HHS	An Act To Improve the Availability, Efficiency and Cost of Services for Infants, Young Children and Their Families
2317	0	PUBLIC	DPT	HHS	An Act To Enhance Newborn Blood Spot Screening To Conform to Federal Newborn Screening Standards
2316	0	PUBLIC	DPT	HHS	An Act To Amend the Maine Certificate of Need Act of 2002 Concerning Right of Entry and Investigation
2321	0	PUBLIC	DPT	HHS	An Act To Clarify the Child Abuse or Neglect Substantiation Process
2329	0	PUBLIC	LCA	HHS	An Act Regarding the Maternal and Infant Death Review Panel
2249	0	PUBLIC	LCA	HHS	An Act To Require a Pharmacist To Provide Prior Notification to and Obtain Consent from the Prescribing Physician before Changing from One Formulation or Manufacturer of an Antiepileptic Drug to Another
2402	0	PUBLIC	DPT	HHS	An Act To Amend the Laws Regarding Authority over and Oversight of Certified Nursing Assistant Educational Programs
2399	0	PUBLIC	DPT	HHS	An Act To Amend the Laws Governing the Maine Health Data Processing Center and the Maine Health Data Organization
2322	0	PUBLIC	DPT	HHS	An Act To Update the Laws Affecting the Department of Health and Human Services, Division of Licensing and Regulatory Services
2318	0	PUBLIC	DPT	HHS	An Act To Update the Laws Affecting the Maine Center for Disease Control and Prevention
2212	0	PUBLIC	LCA	HHS	An Act To Create the Children's Wireless Protection Act
2367	0	PUBLIC	LCA	HHS	An Act To Reimburse Pharmacies under the MaineCare Program Based on Wholesale Acquisition Costs
2059	0	PUBLIC	LCA	HHS	An Act To Establish the Silver Alert Program
2437	0	PUBLIC	LCA	HHS	An Act Enabling Expedited Partner Therapy
2319	0	PUBLIC	DPT	HHS	An Act To Amend the Laws Governing the Interstate Compact for the Placement of Children
233				HHS	An Act To Include Independent Practice Dental Hygienists in MaineCare
624				HHS	Resolve. To Implement Certain Recommendations of the Report of the Governor's Task Force on Expanding Access to Oral Health Care for Maine People
637				HHS	An Act To Ensure Services for Adults with Developmental Disabilities
701				HHS	An Act To Fund the Screening and Early Detection Elements of the Statewide Cancer Plan
757				HHS	An Act To Improve the Transparency of Certain Hospitals
821				HHS	An Act To Support Collection and Proper Disposal of Unwanted Drugs
1262				HHS	An Act To Restrict Gifts to Health Care Practitioners from Pharmaceutical and Medical Device Manufacturers
1281				HHS	An Act To Increase the Efficiency and Effectiveness of Licensing Behavioral Health Care Providers
1339				HHS	An Act To Improve Oversight of Pharmaceutical Purchasing

124th Second Regular Session Legislation
Possible FOA/confidentiality bills highlighted

LR	LD	Law Type	Authority	Broad Subject	Title
	1360			HHS	An Act To Allow Law Enforcement and Family Members To Petition the District Court To Initiate Assisted Outpatient Treatment
	1364			HHS	An Act To Stimulate the Economy by Expanding Opportunities for Personal Assistance Workers
	1408			HHS	An Act To Establish the Universal Childhood Immunization Program
	1464			HHS	An Act To Amend Licensing, Certification and Registration Requirements for Health Care Providers and Other Facilities
2358	0	RESOLVE	LCA	IFS	Resolve, To Increase the Financial Stability of Low-income Families in Maine
2504	0	PUBLIC	DPT	IFS	An Act To Facilitate Uniformity Regarding Exemption from Registration of Certain Securities Offerings
2094	0	PUBLIC	LCA	IFS	An Act To Expand the Opportunity for Persons To Acquire Health Care Coverage under the State's "Mini-COBRA" Program
2125	0	PUBLIC	LCA	IFS	An Act Concerning the Use of Long-term Antibiotics for the Treatment of Lyme Disease
2277	0	PUBLIC	LCA	IFS	An Act To Create Jobs and Stimulate Economic Development by Making Captive Insurers Eligible for Pine Tree Development Zone Benefits for 10 Years
2232	0	PUBLIC	DPT	IFS	An Act To Make Corrections to the Life Settlement Laws
2231	0	PUBLIC	DPT	IFS	An Act To Amend the Loan Originator Registration Laws
2237	0	PUBLIC	LCA	IFS	An Act To Improve Health Insurance Security
2199	0	PUBLIC	LCA	IFS	An Act To Maintain Compliance of Maine's Insurance Laws with National Standards
2048	0	PUBLIC	LCA	IFS	An Act To Clarify the Application of Certain Statutory Requirements to Foreclosures
2430	0	PUBLIC	LCA	IFS	An Act To Improve Health Insurance Security
2489	0	PUBLIC	LCA	IFS	An Act To Allow a Maine-chartered Financial Institution To Conduct a Savings Promotion Raffle
2492	0	PUBLIC	LCA	IFS	An Act To Adopt a Drug Benefit Equity Law
2167	0	PUBLIC	LCA	IFS	An Act To Increase Consumer Choice Regarding the Purchase of Extended Warranties
	20			IFS	An Act To Require Insurance Companies To Cover the Cost of Prosthetics
	257			IFS	An Act To Establish the Health Technology Clinical Committee
	425			IFS	An Act To Require Private Insurance Coverage for Certain Services for Children with Disabilities
	1059			IFS	Resolve, To Enhance Health Care for Direct Care Workers
	1198			IFS	An Act To Reform Insurance Coverage To Include Diagnosis for Autism Spectrum Disorders
	1365			IFS	An Act To Establish a Single-payer Health Care System
2149	0	PUBLIC	LCA	IFW	An Act To Amend the Current Moose Permit System and Preference Point System in Maine
2394	0	PUBLIC	LCA	IFW	An Act To Allow the Electronic Registration of Big Game Animals

124th Second Regular Session Legislation
Possible FOIA/confidentiality bills highlighted

LR	LD	LawType	Authority	Broad Subject	Title
2447	0	PUBLIC	LCA	IFW	An Act To Ensure That Search and Rescue Dogs Are Afforded the Same Access to Public Accommodations as Service Animals
2190	0	PUBLIC	LCA	IFW	An Act To Prohibit the Use of Personal Watercraft on Wilson Pond
2081	0	PUBLIC	LCA	IFW	An Act To Allow Deer Hunting in Owls Head during Firearms Season with Shotguns Only
2291	0	PUBLIC	LCA	IFW	An Act To Increase Payments to Agents Who Provide Tags for Wild Game
2409	0	PUBLIC	DPT	IFW	An Act To Clarify and Amend Laws Pertaining to Licenses Issued by the Department of Inland Fisheries and Wildlife
2408	0	PUBLIC	DPT	IFW	An Act To Amend Certain Provisions of Fish and Wildlife Laws
2354	0	PUBLIC	LCA	IFW	An Act To Amend the Standards by Which Game Wardens May Stop All-terrain Vehicles when Operating on Private Property
2278	0	RESOLVE	LCA	IFW	Resolve, Directing the Department of Inland Fisheries and Wildlife To Adopt Rules Clarifying Fish Stocking Decisions
807				IFW	An Act To Improve and Promote Maine's Landlocked Salmon Resources
2298	0	PUBLIC	RSA	JTR	JOINT RESOLUTION MEMORIALIZING THE PRESIDENT OF THE UNITED STATES AND THE UNITED STATES CONGRESS TO FULFILL THE INTENT TO FUND 60% OF THE COSTS OF SPECIAL EDUCATION AND TO END UNFUNDED MANDATES
2375	0	PUBLIC	IDP	JUD	An Act To Promote Opportunity for Workers in the Maine Woods
2378	0	PUBLIC	IDP	JUD	An Act To Make Technical Changes to the Laws Governing the Practice of Law
2452	0	PUBLIC	IDP	JUD	An Act To Amend the Laws Relating to Government Records
2049	0	PUBLIC	LCA	JUD	An Act To Amend the Statute of Limitations under the Maine Human Rights Act
2097	0	PUBLIC	LCA	JUD	An Act To Ensure Rights to Children for Caretaker Relatives
2203	0	PUBLIC	LCA	JUD	An Act To Establish a Policy of Communication and Consultation on Issues Affecting Tribal Communities of the Passamaquoddy Tribe
2126	0	PUBLIC	LCA	JUD	An Act To Remove the Age Limit Governing When a Court Must Consider the Wishes of a Child in a Proceeding for the Termination of Parental Rights
2124	0	PUBLIC	LCA	JUD	An Act To Protect Confidential Consumer Records in Self-service Storage Facilities
2267	0	PUBLIC	DPT	JUD	An Act To Strengthen Protection from Abuse and Protection from Harassment Laws
2328	0	PUBLIC	LCA	JUD	An Act To Protect Information Maintained by Registers of Deeds
2377	0	PUBLIC	IDP	JUD	An Act To Ensure That Substantial State Contracts Receive Adequate Legal Review
2320	0	PUBLIC	DPT	JUD	An Act To Expand Options in the Permanency Plan for Children in Foster Care
2130	0	PUBLIC	LCA	JUD	An Act To Further Regulate the Communications of Members of Public Bodies
2448	0	PUBLIC	IDP	JUD	An Act To Replace the Maine Limited Liability Company Act
2170	0	PUBLIC	LCA	JUD	An Act To Amend Laws Relating to Persons Serving as Permanency Guardians
2050	0	PUBLIC	PST	JUD	An Act To Correct Errors and Inconsistencies in the Laws of Maine
445				JUD	An Act To Improve Tribal-State Relations
529				JUD	An Act To Create a Traffic Court
1256				JUD	An Act To Prohibit Predispute Mandatory Binding Arbitration Clauses in Consumer Contracts

124th Second Regular Session Legislation
Possible FOA/confidentiality bills highlighted

LR	LD	LawType	Authority	Broad Subject	Title
	1289			JUD	An Act To Enact the Uniform Debt Management Services Act
	1378			JUD	An Act To Adopt Portions of the Uniform Mediation Act
2350	0	PUBLIC	LCA	LAB	An Act Relating to the Membership of the Workers' Compensation Board
2369	0	PUBLIC	LCA	LAB	An Act Regarding Maine Public Employees Retirement System Life Insurance Policies
2110	0	PUBLIC	LCA	LAB	An Act To Amend the Unemployment Compensation Laws Regarding Vacation Pay
2087	0	PUBLIC	LCA	LAB	An Act To Protect Maine Workers
2179	0	PUBLIC	LCA	LAB	An Act To Provide Continued Protection of Benefits for Retirees of the Maine Public Employees Retirement System
2127	0	PUBLIC	LCA	LAB	An Act To Ensure Equity in Unemployment Compensation Claims
2315	0	PUBLIC	DPT	LAB	An Act To Make Maine Laws Consistent with Recent Amendments to the United States Trade Act of 1974
2254	0	PUBLIC	LCA	LAB	An Act To Amend the Laws Governing the Knowing Misclassification of Construction Workers
2314	0	PUBLIC	DPT	LAB	An Act To Implement a Maine Unemployment Insurance Work-sharing Program
2134	0	PUBLIC	LCA	LAB	An Act To Prevent the Spread of H1N1
2381	0	PUBLIC	IDP	LAB	An Act To Bring the Laws of the Maine Public Employees Retirement System into Compliance with the Federal Internal Revenue Code
	125			LAB	Resolve, To Establish the Blue Ribbon Commission To Study the Functions and Operations of the Maine Public Employees Retirement System
	192			LAB	An Act To Index the State Minimum Wage to Inflation
	403			LAB	An Act To Increase the Minimum Wage
	934			LAB	An Act To Clarify Public Sector Employee Fair Choice in Collective Bargaining
2416	0	PUBLIC	LCA	LVA	An Act To Clarify the Laws Governing Instant Redeemable Coupons Included with a Spirits Product
2485	0	CON RES	LCA	LVA	RESOLUTION, Proposing an Amendment to the Constitution of Maine To Amend the Requirements Governing Direct Initiatives
2477	0	PUBLIC	LCA	LVA	An Act To Streamline Wine Registration Requirements
2449	0	PUBLIC	IDP	LVA	An Act To Facilitate Voting by Uninformed Service and Overseas Voters
2147	0	PUBLIC	LCA	LVA	An Act To Exempt Certain Mobile Homes from the Radon Testing Requirement
2296	0	PUBLIC	LCA	LVA	An Act Pertaining to Educational Benefits for Veterans and Their Dependents
2310	0	PUBLIC	LCA	LVA	An Act To Strengthen the Ballot Initiative Process
2243	0	RESOLVE	LCA	LVA	Resolve, To Transfer the Ownership of the Bath Armory to the City of Bath
2230	0	PUBLIC	DPT	LVA	An Act To Amend the Rights and Liabilities of the Supervisory Physician of a Physician Assistant
2451	0	PUBLIC	IDP	LVA	An Act To Amend the Election Laws and Other Related Laws
2450	0	PUBLIC	IDP	LVA	An Act To Improve Access to Data in the Central Voter Registration System
2380	0	PUBLIC	IDP	LVA	An Act To Improve Disclosure of Campaign Finance Information and the Operation of the Maine Clean Election Act

124th Second Regular Session Legislation
Possible FOIA/confidentiality bills highlighted

LR	LD	LawType	Authority	Broad Subject	Title
2228	0	PUBLIC	DPT	LVA	An Act To Update Department of Defense, Veterans and Emergency Management Laws
2304	0	PUBLIC	LCA	LVA	An Act Regarding Liquor Licenses for Qualified Catering Services
2084	0	PUBLIC	LCA	LVA	An Act To Prevent Predatory Signature Gathering and To Strengthen the Citizen Initiative and People's Veto Process
2039	0	PUBLIC	LCA	LVA	An Act Regarding Mobile Service Bars at Municipal Golf Courses
2192	0	PUBLIC	LCA	LVA	An Act To Amend the Laws Governing the Taste Testing of Alcoholic Beverages
2066	0	PUBLIC	LCA	LVA	An Act To Amend the Laws Governing Taste Testing of Alcoholic Beverages by Retail Licensees
	0			LVA	Joint Order, To Amend the Joint Rules To Require Agreement with the Legislative Code of Ethics
	56			LVA	An Act To Join the Interstate Compact on the National Popular Vote
	833			LVA	An Act To Distribute Funds Received from the Racino in Bangor to the Department of Health and Human Services, Office of Substance Abuse
	1330			LVA	An Act Regarding Gaming by Charitable Organizations
	1345			LVA	RESOLUTION, Proposing an Amendment to the Constitution of Maine To Increase the Required Number of Signatures for a Direct Initiative or a People's Veto and To Limit a Direct Initiative to One Subject
	1420			LVA	An Act To Alter the Distribution of Maine Clean Election Act Funding to gubernatorial Candidates
	1421			LVA	An Act To Ensure the Perpetual Care of Maine Veterans' Cemeteries
	1437			LVA	An Act To Permit Video Gaming for Money Conducted by Nonprofit Organizations
2365	0	PUBLIC	LCA	MAR	An Act To Eliminate the 3-trap Limit in the Waters off Hancock County
2227	0	PUBLIC	DPT	MAR	An Act To Clarify the Marine Resources Laws To Provide for the Protection of Public Safety and Welfare
2225	0	PUBLIC	DPT	MAR	An Act To Amend the Lobster Meat Laws and Expand Economic Opportunity for Maine's Lobster Industry
2224	0	PUBLIC	DPT	MAR	An Act To Require That Seafood and Marine Worm Dealers Purchase Only from Licensed Harvesters
2223	0	PUBLIC	DPT	MAR	An Act To Correct Errors and Inconsistencies in Marine Resources Laws
2222	0	PUBLIC	DPT	MAR	An Act To Create a Commercial Pelagic and Anadromous Fishing License and Establish the Pelagic and Anadromous Fisheries Fund
	932			MAR	An Act To Establish Area Management of Maine's Scallop Fishery
	1331			MAR	An Act Regarding Saltwater Recreational Fishing
	1432			MAR	An Act To Create a Saltwater Recreational Fishing Registry
2074	0	RESOLVE	PST	NAT	Resolve, Regarding Legislative Review of Section 16 Activities in Coastal Sand Dunes, a Major Substantive Rule of the Department of Environmental Protection
2432	0	PUBLIC	LCA	NAT	An Act Related to Qualified Waste-to-energy Power
2111	0	PUBLIC	LCA	NAT	An Act To Prevent the Spread of Invasive Plants and Protect Maine's Lakes

124th Second Regular Session Legislation
Possible FOA/confidentiality bills highlighted

LR	LD	LawType	Authority	Broad Subject	Title
2116	0	PUBLIC	LCA	NAT	An Act To Expand Eligibility of Certain Municipal Landfills To Participate in the State's Remediation and Closure Program
2182	0	PUBLIC	LCA	NAT	An Act To Clarify Maine's Phaseout of Polybrominated Diphenyl Ethers
2266	0	PUBLIC	DPT	NAT	An Act Concerning the Establishment of Water Levels
2240	0	PUBLIC	LCA	NAT	An Act To Improve Maine's Air Quality and Reduce Regional Haze at Acadia National Park and Other Federally Designated Class I Areas
2262	0	PUBLIC	DPT	NAT	An Act To Expedite Rulemaking Concerning Agronomic Utilization of Sludge
2261	0	PUBLIC	DPT	NAT	An Act To Establish a Residential Wood Stove Replacement Fund
2112	0	PUBLIC	LCA	NAT	An Act To Amend the Coastal and Lake Watershed Districts Laws To Clarify Municipal Home Rule and Interlocal Cooperation Authority
2265	0	PUBLIC	DPT	NAT	An Act To Close Loopholes in Environmental Laws
2263	0	PUBLIC	DPT	NAT	An Act To Amend Laws Administered by the Department of Environmental Protection
2349	0	PUBLIC	LCA	NAT	An Act To Establish Biofuel and Ultra-low Sulfur Requirements for Number 2 Home Heating Oil
2063	0	PUBLIC	LCA	NAT	An Act To Update and Modernize Maine's Floodplain Mapping for Coastal Communities
2260	0	PUBLIC	DPT	NAT	An Act To Improve Maine's Air Quality and Reduce Regional Haze at Acadia National Park and Other Class I Areas
2264	0	PUBLIC	DPT	NAT	An Act To Improve Water Quality through the Phaseout of Overboard Discharges and the Improvement of the Boat Pump-out Laws
2389	0	PUBLIC	LCA	NAT	An Act To Provide Leadership and Responsible Recycling for Consumer Products
2339	0	PUBLIC	LCA	NAT	An Act To Protect the Environment and Natural Resources of the State by Regulating the Discharge of Certain Substances into the Environment
891				NAT	An Act To Amend the Site Location of Development Laws To Include Consideration of Greenhouse Gas Emissions
956				NAT	RESOLUTION, Proposing an Amendment to the Constitution of Maine To Provide Constitutional Protection to the Funds Generated by the Regional Greenhouse Gas Initiative
1423				NAT	An Act To Improve Toxics Use Reduction and Reduce Energy Costs by Maine Businesses
2075	0	PUBLIC	LCA	SLG	An Act To Authorize Municipal Officers To Resolve Road-naming Disputes
2138	0	PUBLIC	LCA	SLG	An Act Regarding Document Fees at County Registries of Deeds
2169	0	PUBLIC	LCA	SLG	An Act To Amend the Laws Governing the Somerset County Budget Procedure
2193	0	PUBLIC	LCA	SLG	An Act To Restore Longevity Pay
2392	0	PUBLIC	LCA	SLG	An Act To Clarify the Informed Growth Act
2514	0	PUBLIC	PLW	SLG	An Act To Implement the Recommendations of the Initiative To Streamline Government
1022				SLG	An Act To Amend the Laws Governing the Legislative Youth Advisory Council

124th Second Regular Session Legislation
Possible FOIA/confidentiality bills highlighted

LR	LD	LawType	Authority	Broad Subject	Title
2471	0	RESOLVE	LCA	TAX	Resolve, To Increase Transparency and Accountability and Assess the Impact of Tax Incentive Programs
2086	0	PUBLIC	LCA	TAX	An Act To Improve Employment Opportunities for Maine Workers in the Forest Industry
2085	0	PUBLIC	LCA	TAX	An Act To Increase Financial Assets of Maine Citizens by Allowing Split Tax Refunds
2135	0	PUBLIC	LCA	TAX	An Act To Improve the Seed Capital Investment Tax Credit Program
2157	0	PUBLIC	LCA	TAX	An Act To Change the Requirements for the Sales Tax Exemption for Snowmobile Trail Grooming Equipment
2300	0	PUBLIC	LCA	TAX	An Act To Modify the Maine Tax Code To Support Renewable Energy
2286	0	PUBLIC	LCA	TAX	An Act To Encourage Extended Stays in Maine Waters
2220	0	PUBLIC	DPT	TAX	An Act To Conform the Maine Tax Laws for 2009 to the United States Internal Revenue Code
2219	0	PUBLIC	DPT	TAX	An Act To Amend the Tax Laws
2253	0	RESOLVE	LCA	TAX	Resolve, To Promote Efficiency and To Streamline Access to the Circuitbreaker Program Application Process
2250	0	PUBLIC	LCA	TAX	An Act To Amend the Law Governing Sales Tax Exemptions for Certain Nonprofit Youth Organizations
2221	0	RESOLVE	DPT	TAX	Resolve, Authorizing the State Tax Assessor To Convey the Interest of the State in Certain Real Estate in the Unorganized Territory
2178	0	PUBLIC	LCA	TAX	An Act To Avoid Unnecessary Removal of Land from the Maine Tree Growth Tax Law Program
2459	0	PUBLIC	LCA	TAX	An Act To Increase the Affordability of Renewable Energy for Homeowners and Small Businesses
2218	0	PUBLIC	DPT	TAX	An Act Concerning Technical Changes to the Tax Laws
2364	0	PUBLIC	LCA	TRA	An Act To Regulate the Use of Traffic Surveillance Cameras
2362	0	PUBLIC	LCA	TRA	An Act To Establish a Committee To Promote General Aviation in the State
2360	0	RESOLVE	LCA	TRA	Resolve, To Authorize the Placement of a Sign at Saddleback Mountain
2418	0	PUBLIC	LCA	TRA	An Act To Amend the Laws Governing the We Support Our Troops Registration Plates
2439	0	PUBLIC	LCA	TRA	An Act To Preserve the "We Support Our Troops" Registration Plate
2035	0	PUBLIC	LCA	TRA	An Act To Impose Service Requirements on Railroads That Receive Funds from the Department of Transportation
2053	0	PUBLIC	LCA	TRA	An Act To Reduce Noise Caused by Motorcycles and Improve Public Health
2096	0	RESOLVE	LCA	TRA	Resolve, To Name a Bridge in North Berwick the North Berwick Veterans Memorial Bridge
2115	0	RESOLVE	LCA	TRA	Resolve, Authorizing the Transfer of State Land to the Natural Resource Education Center of Greenville

124th Second Regular Session Legislation
Possible FOA/confidentiality bills highlighted

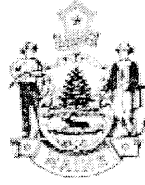
LR	LD	LawType	Authority	Broad Subject	Title
2188	0	PUBLIC	LCA	TRA	An Act To Allow the State To Receive Full Funding under the Federal Motor Carrier Safety Assistance Program
2155	0	PUBLIC	LCA	TRA	An Act To Require the Bureau of Motor Vehicles To Accept Certification of Disability from the United States Department of Veterans Affairs
2279	0	PUBLIC	LCA	TRA	An Act To Dedicate Surplus Transportation Funds to Highway Maintenance and Paving
2245	0	RESOLVE	LCA	TRA	Resolve, To Name the New Bridge over Gilman Stream in New Portland the Joshua Bernard Memorial Bridge
2234	0	RESOLVE	LCA	TRA	Resolve, Directing the Department of Transportation To Review the Fiscal Impact on the State of the Closure of the Railroad Track between Madawaska and Millinocket
2208	0	PUBLIC	LCA	TRA	An Act To Establish Emergency Zones on Public Ways To Minimize Accidents
2121	0	PUBLIC	LCA	TRA	An Act To Encourage Tourism by Ensuring the Safety, Accessibility and Availability of Highway Rest Stops and Scenic Overlooks
2334	0	PUBLIC	LCA	TRA	An Act To Reduce Road Noise within Posted Areas
2077	0	RESOLVE	LCA	TRA	Resolve, To Name Route 16/27 in the Town of Stratton the Caleb Dalton Stevens Memorial Highway
2454	0	PUBLIC	IDP	TRA	An Act To Amend the Motor Vehicle Laws
2033	0	P & S	LCA	TRA	An Act To Stimulate the Maine Economy and Promote the Development of Maine's Priority Transportation Infrastructure Needs
2424	0	PUBLIC	LCA	TRA	An Act To Designate Funds from the Highway Fund to the Highway and Bridge Light Capital Program
2274	0	PUBLIC	LCA	TRA	An Act To Provide for the Safety of Young Maine Athletes
2390	0	P & S	LCA	UTE	An Act To Amend the Charter of the Caribou Utilities District
2478	0	PUBLIC	LCA	UTE	An Act To Enhance Maine's Clean Energy Opportunities
2474	0	PUBLIC	LCA	UTE	An Act To Require That Expedited Wind Energy Development Projects Provide a Tangible Benefit to Maine Ratepayers in the Form of Discounts to Future Electric Rates
2458	0	PUBLIC	LCA	UTE	An Act To Create a Smart Grid Policy in the State
2446	0	P & S	LCA	UTE	An Act To Ensure That Maine's Energy Corridor Policy Does Not Harm Maine's Renewable Power Development
2499	0	PUBLIC	LCA	UTE	An Act To Strengthen the Community-based Renewable Energy Pilot Program
2045	0	PUBLIC	LCA	UTE	An Act To Maintain Internet Access for Maine Citizens and Businesses
2109	0	PUBLIC	LCA	UTE	An Act To Authorize Sanitary Districts To Waive an Automatic Sanitary District Lien Foreclosure
2184	0	P & S	LCA	UTE	An Act To Amend the Charter of the Dexter Utility District
2153	0	PUBLIC	LCA	UTE	An Act To Raise the Indebtedness Limit of the Eagle Lake Water and Sewer District
2082	0	PUBLIC	LCA	UTE	An Act To Require That a Utility Company Notify the Owner of Property prior to Disconnecting Services

124th Second Regular Session Legislation
Possible FOIA/confidentiality bills highlighted

LR	LD	LawType	Authority	Broad Subject	Title
2303	0	PUBLIC	LCA	UTE	An Act To Direct the Public Utilities Commission To Adopt Rules To Improve the Safety of Multiunit Rental Dwellings
2293	0	P & S	LCA	UTE	An Act To Amend the Charter of the Corinna Sewer District
2469	0	PUBLIC	IDP	UTE	An Act To Resolve Conflicts in the Laws Governing the Surcharge for the E-9-1-1 System
2468	0	PUBLIC	IDP	UTE	An Act To Reallocate Funds for a Position at the Public Utilities Commission
2467	0	PUBLIC	IDP	UTE	An Act To Create a Position at the Public Utilities Commission
2412	0	PUBLIC	DPT	UTE	An Act To Provide for Equitable Sharing by Service Providers of the Costs of the Public Utilities Commission and the Office of the Public Advocate
2411	0	PUBLIC	DPT	UTE	An Act To Provide More Information to the Public Advocate
2410	0	PUBLIC	DPT	UTE	An Act Concerning Electricity Customers Whose Bills Increase as a Result of the Implementation of Energy Conservation or Energy Efficiency Measures
2204	0	P & S	LCA	UTE	An Act To Create the Lincolnville Sewer District
2370	0	PUBLIC	LCA	UTE	An Act To Amend the Electric Utility Industry Laws as They Relate to Renewable Resources
2255	0	P & S	LCA	UTE	An Act To Amend the Charter of the Buckfield Village Corporation
2346	0	RESOLVE	LCA	UTE	Resolve, To Review Certification Requirements for Installation of Solar Energy Systems
2466	0	PUBLIC	LCA	UTE	An Act To Protect Universal Service
2183	0	PUBLIC	LCA	UTE	An Act To Amend the Laws Governing Noise Limitations on Wind Turbines
2173	0	PUBLIC	LCA	UTE	An Act To Establish a Broadband Policy for Maine
2252	0	PUBLIC	LCA	UTE	An Act To Streamline Collections for Consumer-owned Consolidated Water and Wastewater Utilities
543				UTE	An Act Concerning the Allocation of Power Generated by GNE, LLC
1222				UTE	An Act To Promote Geothermal Energy in the State
1350				UTE	An Act To Establish the Maine Transmission Mitigation Trust Fund
1430				UTE	An Act To Ensure Electric Capacity To Serve Maine Consumers

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FOR REVIEW 12/1



**STATE OF MAINE
124TH LEGISLATURE
FIRST REGULAR SESSION**

**Fourth Annual Report
of the
RIGHT TO KNOW ADVISORY COMMITTEE**

January 2010

Members:

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Rep. Dawn Hill
Shenna Bellows
Karla Black
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DRAFT Table of Contents

Page

Executive Summary	
I. Introduction	
II. Advisory Committee Duties	
III. Recent Court Decisions Related to Freedom of Access Issues	
IV. Right to Know Advisory Committee Subcommittees	
V. Actions Related to Right to Know Advisory Committee Recommendations Contained in Third Annual Report	
VI. Right to Know Advisory Committee Recommendations.....	
VII. Future Plans	

Appendices

- A. Authorizing legislation, Public Law 2005, chapter 631
- B. Membership list, Right to Know Advisory Committee
- C. Recommendations concerning existing public records exceptions, Titles 10 - 21-A

[Other appendices to be added]